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August 1996

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# Key Points Of Report

## A Special Report on Positions Exempt from the Classification Plan

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### Overall Conclusion

Discrepancies and inconsistencies between the State's Classification Plan and those positions exempt from the Plan need to be addressed to ensure the State's compensation plan for both classified positions and exempt positions are equitable and consistent.

### Key Facts And Findings

- Approximately 64 percent of exempt positions have salary rates that fall within the Classification Salary Schedule. Many of these exempt positions perform work comparable to classified positions.
- Of exempt titles, 26 percent are not being utilized by agencies.
- Of exempt titles, 41 percent have unlimited authorization as to the number of incumbents per title.
- Job descriptions are not developed for all exempt titles. Job descriptions will serve as documents that are a legally defensible basis for compensation determination, salary administration, and staffing actions.
- Termination reason codes for positions exempt from the Classification Plan are not currently tracked.

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## Office of the State Auditor

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*The project was undertaken as a result of a request from the Legislative Audit Committee.*

## Overview

The State Classification Office's review of positions exempt from the Classification Plan identified discrepancies in the compensation practices between exempt and classified positions. These discrepancies need to be addressed to ensure that the State's compensation plan is equitable and consistent. The annual salaries of exempt employees amount to approximately \$577 million at agencies subject to, or which voluntarily follow, the Classification Plan. To help reduce the risks associated with exempting positions from the Classification Plan, we recommend that:

- The number of exempt positions should be reduced:
  - All exempt positions, except for executive positions, should be incorporated into the revised Classification Plan.
  - The Classification Plan should be amended to include multiple salary schedules.
- Currently approved exempt positions should be evaluated to ensure they are still necessary, in use, and limited in number.
- The State should put controls in place to ensure that the positions which remain exempt are appropriately monitored.
  - Job descriptions for all exempt positions, including executive positions, should be developed and maintained by the State Classification Office. Job descriptions should be submitted by the agencies to the Governor's Office of Budget and Planning and the Legislative Budget Board when requesting any bona fide, new exempt positions. In addition, the State Classification Office should assist the two budget offices in determining the appropriate level of compensation for exempt positions.

- A uniform system for tracking termination reason codes for all state employees should be implemented.

The 135 state agencies subject to, or which voluntarily follow, the State Classification Plan have a total of 13,649 full-time exempt employees and 130,493 full-time classified employees. Thus, exempt employees make up 9.31 percent of the full-time workforce at agencies subject to, or which voluntarily follow, the State's Classification Plan.

Exempting positions from the Classification Plan allows agencies more flexibility in setting pay rates. This flexibility is an important resource in recruiting and retaining employees with unique and highly sought-after knowledge, skills, and abilities. This is especially true for executive management positions.

However, exempting positions from the Classification Plan also creates a greater risk that the positions will not be consistently or effectively managed. This risk is supported by the following facts:

1. Agencies often have not developed thorough job descriptions for exempt positions. Job descriptions are necessary because they serve as documents that are a legally defensible basis for compensation determinations, salary administration, and staffing actions.
2. There are no generic job descriptions to help ensure that exempt positions with similar responsibilities across agencies are consistently classified and paid comparable amounts. This creates the possibility that an employee may be hired away from an agency which must function

## Overview

under extremely tight budget constraints to an agency with more flexibility in its budget *even though* the duties and responsibilities required of the employee may not change significantly.

3. Agencies may not have the human resource expertise or access to the market salary information needed to determine appropriate levels of compensation for exempt positions.
4. Exempt positions are not routinely audited to determine whether they are

appropriately classified or to assess the reasonableness of the rates of pay for the positions.

5. Forty-one percent of exempt job titles are authorized without setting a limit on the number of employees which may be assigned those classifications. This creates the risk that agencies may, over the course of time, exempt more employees from the Classification Plan than is justified by the original exemption request.

## Issues and Recommendations

Section 1:

### Reduce the Number of Exempt Positions

The 13,649 positions exempt from the Classification Plan fit into three major categories of job titles, as identified by the State Classification Office:

- **Executive titles:** The State Classification Office identified 689 executive exempt titles with 2,598 incumbents. Exempt executives make up 19.03 percent of the total number of exempt employees at agencies subject to, or which voluntarily follow, the Classification Plan.

Executive exempt positions include occupations in which employees set broad policies, exercise overall responsibility for the execution of these policies, direct individual departments or special phases of the agency's operations, or provide specialized consultation. Examples of state executive exempt positions include, but are not limited to, Executive Director, Deputy Director, Commissioner, Director, and Manager titles.

In general, these positions require unique knowledge, skills, and abilities which clearly justify an exemption from the Classification Plan.

- **Professional titles with salaries higher than Salary Group 21, Step 8 of the Classification Salary Schedule:** The State Classification Office identified 196 professional exempt titles with salaries greater than the salary paid to classified employees at Salary Group 21, Step 8 (\$51,864) of the Classification Salary

Schedule. These 196 professional titles had 2,353 incumbents, representing 17.24 percent of the total number of exempt employees at agencies subject to, or which voluntarily follow, the Classification Plan.

Professional exempt positions include occupations which require specialized and theoretical knowledge which is usually acquired through college training or work experience and other training which provide comparable knowledge. Examples of state professional exempt positions with salaries greater than Salary Group 21, Step 8, include titles such as Attorneys, Engineers, and Physicians.

The specialized and theoretical knowledge is generally not a need which is unique to a single agency. Instead, positions with these job titles are often used by multiple state agencies.

- **Titles with not-to-exceed salary rates that fall within the Classification Salary Schedule:** The State Classification Office identified 488 exempt titles with not-to-exceed salary rates that fall within the Classification Salary Schedule. These 488 titles had 8,698 incumbents, representing 63.73 percent of the total number of exempt employees at agencies subject to, or which voluntarily follow, the Classification Plan.

This third type of exempt position includes professional, protective service, administrative support, skilled craft, and service-maintenance workers.

The majority of these incumbents perform work which is comparable to classified positions.

## Issues and Recommendations

Section 1-A:

### **All Exempt Positions, Except Executive Positions, Should be Incorporated into the Revised Classification Plan**

Exempt positions whose salaries fall within the Classification Salary Schedule and

Of 488 exempt titles with not-to-exceed salary rates salaries that fall within the Classification Salary Schedule, 250 would fit into an existing class series with no impact on salary. Another 24 titles have a corresponding class series within the Classification Plan, but the exempt salary exceeds the maximum salary of the existing class series.

### **Salary Administration Comparisons Between Classified Positions and Positions Exempt from the Classification Plan**

The average annual salary for the State's 13,649 exempt employees was \$42,267, as of February 1996. Of these, 2,598 were executive employees with an average salary of \$65,721. In comparison, the State's 130,493 classified employees received an average annual salary of \$24,175. The overall statewide average annual salary for full-time classified, exempt, and temporary employees was \$25,861.

While the average salaries of both exempt and classified employees have increased from 1991 to 1996, the salaries of exempt employees have increased at a slightly higher rate. Exempt employees have seen their salaries increase, on average, by 11.57 percent over the five-year period, while classified employees have seen their salaries increase by only 10.35 percent over the same five-year period.

The rates of increase for both groups of employees indicate that discrepancies exist between the salary administration activity for the two groups of employees. This may be due, at least in part, to the fact that while there has been no adjustment to the Classification Salary Schedule in the past four years, exempt employees have seen increases in their not-to-exceed salary rates over the same time period.

Salary administration activity for executive exempt employees also appears to be different from non-executive exempt employees, as well as classified employees. Executive exempt employees generally receive salaries that are at or near the maximum authorized salary rates. This is not the case for non-executive exempt employees or classified employees. For example, 57 percent of the 130,493 classified employees receive salaries at the Step 1 or Step 2 rate, although each salary group has eight steps. The same comparison on the underutilization of available salaries cannot be drawn for the State's non-executive exempt positions since they do not have minimum salary rates.

perform work comparable to classified positions should be incorporated into the revised Classification Plan.

The Texas Department of Criminal Justice (Department) uses the largest group of exempt job titles which fall within the Classification Salary Schedule. The authorized not-to-exceed rates for all of the 132 approved exempt construction titles at the Department fall within the Classification Salary Schedule. For fiscal years 1996-97, the State Classification Office approved job titles and pay rates for 132 such exempt titles. (Currently, the General Appropriations Act authorizes the State Classification Office to approve exempt job titles and rates of pay for salaried positions of engineers, architects, superintendents, supervisors, and administrative expenses and support staff of construction projects at the Department.) However, the State Classification Office identified 98 of the 132 titles (74 percent) which would fit into an existing class series within the Classification Plan with no impact on salary. Of the 132 approved titles, 68 have no incumbents.

Other exempt titles which perform similar types of work as classified titles but receive different rates of pay cluster into three main functional areas: legal, medical, and financial. For example, of the 130 exempt attorney position titles, 82 titles (63 percent) have not-to-exceed rates that are greater than the highest classified rate obtainable within the Classification Salary Schedule. The not-to-exceed salary rates of

## Issues and Recommendations

exempt attorney positions range from a low of \$33,986 to a high of \$102,107. But, the maximum salaries (Step 8 rates) of classified attorney positions range from a low of \$31,656 to a high of only \$51,864.

### Current Work in Progress:

*The State Classification Office is currently working with the House of Representatives Committee on Appropriations regarding the possibility of implementing this recommendation. We are identifying possible exempt titles that should be incorporated into the revised Classification Plan.*

Section 1-B:

### **The Classification Plan Should be Amended to Include Multiple Salary Schedules**

Multiple salary schedules, accommodating both classified and exempt positions, would provide the State greater flexibility in compensating state employees while still maintaining controls on the amount of compensation provided to its employees. Current compensation philosophy supports and distinguishes separate pay range structures for positions that perform different types of work. For example, a salary schedule for professional services and administrative positions usually incorporates broader salary ranges to allow for greater flexibility in compensating and retaining employees who may have a higher level of responsibility in meeting the organization's mission and goals. Thus, multiple salary schedules incorporating the broad range of positions currently exempt from the Classification Plan would be more plausible than just completely expanding the current Classification Salary Schedule.

In addition, adopting multiple salary schedules would provide the agencies with more guidance in how the Legislature would like

the positions to be compensated, classified, and controlled from a statewide, oversight perspective.

### Current Work in Progress:

*The State Classification Office is currently working with the House of Representatives Committee on Appropriations regarding the possibility of implementing this recommendation. We are currently exploring the possibility of establishing three salary schedules. In establishing multiple salary schedules, all exempt positions, except executive positions, would be incorporated into one of three salary schedules.*

Section 1-C:

### **Exempt Titles Should be Reviewed to Determine Continued Authorization**

The original reasons for exempting certain series from the Classification Plan may no longer be valid. The State Classification Office reviewed exempt attorneys, auditors, nurses, social worker trainees, law enforcement, and construction personnel at selected agencies. These exempt series have salaries that fall mostly within the Classification Salary Schedule, and the majority of them perform work comparable to classified series. Fifteen of the 17 series reviewed were exempted because classified salaries were not competitive with the market. Of these 15 series, seven were exempted when agencies were prohibited from hiring new employees above Step 1 of the Classification Salary Schedule. Agencies may now hire classified employees at any step within the appropriate salary group, thus alleviating some of these problems.

Exempt titles that are no longer utilized should be reviewed to determine continued authorization. Positions that have no

## Issues and Recommendations

incumbents and are no longer utilized by agencies should be reviewed to determine whether their authorization should be discontinued. There were 353 out of 1,373 exempt titles that had no incumbents as of February 1996.

### Current Work in Progress:

*The State Classification Office is currently working with the House of Representatives Committee on Appropriations regarding the possibility of implementing this recommendation. Agencies have been contacted to determine whether vacant exempt titles should be deleted or retained, and if retained, the time frame for filling the positions.*

Section 1-D:

### **Imposing Limits on the Number of Employees Allowed per Exempt Title Should be Considered for Those Titles with Unlimited Authorization**

Limits on the number of incumbents allowed per exempt title should be imposed to ensure the limited growth in the level of state employment. Limiting the number of incumbents per title, along with the overall targeted employee levels established by the Legislature, would help to ensure limited growth in the level of state employment. Of the 1,373 exempt titles statewide, 41 percent of the titles (568) provide unlimited authorization as to the number of incumbents per title. Despite the fact that the number of incumbents per title is dependent on an agency's budget, and targeted employee levels within agencies are now identified, unlimited authorization may allow for an unwarranted increase in the number of state employees.

Section 1-E:

### **Job Descriptions for All Exempt Titles Should be Developed and Maintained by the State Classification Office**

Job descriptions for all exempt titles, including executive titles, should be developed and maintained by the State Classification Office. Agencies often have not developed thorough job descriptions for exempt titles. There are no standardized job descriptions to ensure that exempt positions with similar responsibilities across agencies are consistently classified and paid comparable amounts.

In addition, job descriptions should be submitted by the agencies to the Governor's Office of Budget and Planning and Legislative Budget Board when requesting any bona fide, new exempt positions. In reviewing the job descriptions, the State Classification Office should assist the Governor's Office of Budget and Planning and Legislative Budget Board in determining the appropriate level of compensation for exempt positions.

Job descriptions are an important instrument used in salary administration. Job descriptions serve as documents that are a legally defensible basis for compensation determinations, salary administration, and staffing actions.

### Current Work in Progress:

*The State Classification Office is currently working with the House of Representatives Committee on Appropriations regarding the possibility of implementing this recommendation. Agencies have been asked to submit job descriptions on all exempt titles.*



## Issues and Recommendations

Section 1-F:

### **A Uniform System for Collecting Turnover Data for Positions Exempt from the Classification Plan Should be Implemented**

A uniform system of data collection would make workforce trend analysis possible and provide the State with a valuable planning tool to control and predict the impact of turnover. While the current Uniform Statewide Payroll/Personnel System (USPS) and Human Resources Information System (HRIS) track termination reason codes for classified

employees, the same data is not tracked for positions exempt from the Classification Plan. Uniform reason codes, applicable to all agencies and encompassing all reasons for termination, would enable the State to accurately collect and analyze turnover data.

The fiscal year 1995 turnover rate for all exempt employees is 13.04 percent and 11.80 percent for executive exempt employees. These figures are comparable to the classified turnover rate of 13.51 percent, and appear in line with the national average of 12.00 percent, as well as state and local averages.

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# Appendices

Appendix 1:

## Objective, Scope, and Methodology

### Objective

The objective of this project was to review the compensation issues surrounding positions which are exempt from the Classification Plan. The Legislative Audit Committee requested that the State Classification Office conduct this informative review on exempt positions.

### Scope

The scope of this project included full-time positions exempt from the Classification Plan (excluding those at institutions of higher education). Originally, this review was to report information on exempt positions for informational purposes only. However, during the course of our review we identified potential issue areas. As a result, we provided recommendations in order to address these concerns. Further work is needed, however, to address parity issues across agencies for positions performing similar work.

### Methodology

The methodology used in this project consisted of gathering, reviewing, analyzing, and reporting information on positions exempt for the Classification Plan. Information for this project was compiled by the State Classification Office from the Human Resources Information System (HRIS) and Uniform Statewide Payroll/Personnel System (USPS) databases. Data is current through February 1996.

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## State Agencies by Descending Number of Exempt Employees

Agency Number	Agency	Exempt Employees			Total Number of Employees	% Exempt to Total Employees
		Executives	Non-Executives	Total Exempt Employees		
405	Department of Public Safety	17	2,910	2,927	6,410	45.66
696	Department of Criminal Justice	142	1,826	1,968	39,040	5.04
655	Department of Mental Health and Mental Retardation	94	1,795	1,889	25,675	7.36
802	Parks and Wildlife Department	55	965	1,020	2,334	43.70
324	Department of Human Services	63	831	894	17,354	5.15
304	Comptroller of Public Accounts	151	555	706	2,720	25.96
302	Office of the Attorney General	40	577	617	3,474	17.76
241	Comptroller's Judiciary Section	393	146	539	539	100.00
694	Youth Commission	35	255	290	2,636	11.00
601	Department of Transportation	276	0	276	10,110	2.73
362	Lottery Commission	29	238	267	267	100.00
582	Natural Resource Conservation Commission	186	57	243	2,739	8.87
458	Alcoholic Beverage Commission	15	194	209	474	44.09
501	Department of Health	125	60	185	5,302	3.49
451	Department of Banking	19	134	153	161	95.03
305	General Land Office and Veteran's Land Board	95	13	108	654	16.51
454	Department of Insurance	44	32	76	925	8.22
455	Railroad Commission	60	16	76	807	9.42
453	Workers' Compensation Commission	19	45	64	1,073	5.96
323	Teacher Retirement System	43	15	58	363	15.98
322	Employment Commission	55	0	55	4,193	1.31
473	Public Utilities Commission	15	33	48	210	22.86
211	Court of Criminal Appeals	12	31	43	65	66.15
701	Education Agency	37	6	43	844	5.09

Agency Number	Agency	Exempt Employees			Total Number of Employees	% Exempt to Total Employees
		Executives	Non-Executives	Total Exempt Employees		
530	Department of Protective and Regulatory Services	43	0	43	5,627	0.76
201	Supreme Court	10	32	42	64	65.63
360	State Office of Administrative Hearings	38	2	40	108	37.04
401	Adjutant General	3	34	37	270	13.70
225	Fifth Court of Appeals	13	23	36	51	70.59
212	Office of Court Administration	33	0	33	79	41.77
308	State Auditor's Office	16	12	28	249	11.25
301	Office of the Governor	27	1	28	140	20.00
234	Fourteenth Court of Appeals	10	17	27	38	71.05
466	Consumer Credit Commission	3	24	27	30	90.00
551	Department of Agriculture	15	11	26	478	5.44
221	First Court of Appeals	9	17	26	36	72.22
327	Employees Retirement System	22	2	24	301	7.97
330	Rehabilitation Commission	24	0	24	2,386	1.01
469	Credit Union Department	4	17	21	25	84.00
303	General Services Commission	20	0	20	787	2.54
224	Fourth Court of Appeals	8	11	19	30	63.33
223	Third Court of Appeals	7	12	19	28	67.86
222	Second Court of Appeals	7	11	18	33	54.55
476	Racing Commission	2	16	18	66	27.27
332	Department of Housing and Community Affairs	17	0	17	340	5.00
233	Thirteenth Court of Appeals	7	10	17	27	62.96
580	Water Development Board	16	1	17	268	6.34
312	Securities Board	10	5	15	71	21.13
313	Department of Information Services	14	0	14	99	14.14
310	Treasury Department	14	0	14	177	7.91
227	Seventh Court of Appeals	4	9	13	19	68.42

Agency Number	Agency	Exempt Employees			Total Number of Employees	% Exempt to Total Employees
		Executives	Non-Executives	Total Exempt Employees		
465	Department of Commerce	13	0	13	169	7.69
228	Eighth Court of Appeals	4	8	12	20	60.00
450	Savings and Loan Department	4	7	11	12	91.67
529	Health and Human Services Commission	10	0	10	75	13.33
230	Tenth Court of Appeals	2	7	9	13	69.23
231	Eleventh Court of Appeals	3	6	9	14	64.29
232	Twelfth Court of Appeals	4	5	9	14	64.29
517	Commission on Alcohol and Drug Abuse	9	0	9	203	4.43
226	Sixth Court of Appeals	3	6	9	15	60.00
229	Ninth Court of Appeals	3	5	8	15	53.33
307	Secretary of State	8	0	8	227	3.52
318	Commission for the Blind	7	0	7	552	1.27
411	Commission on Fire Protection	5	1	6	141	4.26
475	Office of Public Utility Counsel	3	3	6	20	30.00
333	Office of State-Federal Relations	6	0	6	14	42.86
526	Low-Level Radioactive Waste Disposal Authority	5	0	5	16	31.25
592	Soil and Water Conservation Board	4	0	4	59	6.78
344	Commission on Human Rights	4	0	4	46	8.70
300	Governor's Office, Trustee Programs	3	0	3	3	100.00
363	Council on Workforce & Economic Competitiveness	3	0	3	13	23.08
452	Department of Licensing and Regulation	3	0	3	109	2.75
554	Animal Health Commission	2	1	3	216	1.39
213	Office of State Prosecuting Attorney	3	0	3	5	60.00
347	Public Finance Authority	3	0	3	15	20.00
457	Board of Public Accountancy	3	0	3	41	7.32

Agency Number	Agency	Exempt Employees			Total Number of Employees	% Exempt to Total Employees
		Executives	Non-Executives	Total Exempt Employees		
306	Library and Archives	1	1	2	170	1.18
771	School for the Blind and Visually Impaired	2	0	2	237	0.84
352	Bond Review Board	2	0	2	9	22.22
356	Ethics Commission	2	0	2	26	7.69
410	Criminal Justice Policy Council	2	0	2	27	7.41
403	Veterans Commission	2	0	2	79	2.53
329	Real Estate Commission	2	0	2	83	2.41
583	Sabine River Compact Commission	2	0	2	2	100.00
242	State Commission on Judicial Conduct	2	0	2	10	20.00
532	Interagency Council on Early Childhood Intervention	2	0	2	56	3.57
477	Advisory Commission on State Emergency Communication	2	0	2	21	9.52
459	Board of Architectural Examiners	1	0	1	17	5.88
456	Board of Plumbing Examiners	1	0	1	22	4.55
409	Commission on Jail Standards	1	0	1	18	5.56
460	Board of Registration for Professional Engineers	1	0	1	21	4.76
478	Research and Oversight Council on Worker's Compensation	1	0	1	13	7.69
407	Commission on Law Enforcement Officer Standards and Education	1	0	1	39	2.56
502	Board of Barber Examiners	1	0	1	14	7.14
503	Board of Medical Examiners	1	0	1	91	1.10
504	Board of Dental Examiners	1	0	1	19	5.26
505	Cosmetology Commission	1	0	1	35	2.86
406	National Guard Armory Board	1	0	1	33	3.03
508	Board of Chiropractic Examiners	1	0	1	5	20.00
511	Board of Vocational Nurse Examiners	1	0	1	19	5.26



Agency Number	Agency	Exempt Employees			Total Number of Employees	% Exempt to Total Employees
		Executives	Non-Executives	Total Exempt Employees		
512	State Board of Podiatric Medical Examiners	1	0	1	3	33.33
513	Funeral Service Commission	1	0	1	9	11.11
514	Optometry Board	1	0	1	5	20.00
515	Board of Pharmacy	1	0	1	38	2.63
243	State Law Library	1	0	1	8	12.50
520	Board of Examiners of Psychologists	1	0	1	14	7.14
359	Office of Public Insurance Counsel	1	0	1	16	6.25
527	Cancer Council	1	0	1	8	12.50
355	Children's Trust Fund of Texas Council	1	0	1	7	14.29
353	Incentive and Productivity Commission	1	0	1	6	16.67
472	Structural Pest Control Board	1	0	1	32	3.13
533	Executive Council of Physical Therapy & Occupational Therapy Examiners	1	0	1	17	5.88
342	Aircraft Pooling Board	1	0	1	29	3.45
340	Department of Aging	1	0	1	33	3.03
578	Board of Veterinary Medical Examiners	1	0	1	8	12.50
579	Rio Grande Compact Commission	1	0	1	3	33.33
338	State Pension Review Board	1	0	1	5	20.00
464	Board of Professional Land Surveying	1	0	1	4	25.00
467	Board of Private Investigators and Private Security Agencies	1	0	1	41	2.44
337	Board of Tax Professional Examiners	1	0	1	3	33.33
596	Red River Compact Commission	1	0	1	1	100.00
598	Canadian River Compact Commission	1	0	1	1	100.00
599	Pecos River Compact Commission	1	0	1	1	100.00
335	Commission for the Deaf and Hard of Hearing	1	0	1	9	11.11

Agency Number	Agency	Exempt Employees			Total Number of Employees	% Exempt to Total Employees
		Executives	Non-Executives	Total Exempt Employees		
325	Fire Fighters' Pension Commission	1	0	1	5	20.00
665	Juvenile Probation Commission	1	0	1	41	2.44
813	Commission on the Arts	1	0	1	16	6.25
809	State Preservation Board	1	0	1	29	3.45
808	Historical Commission	1	0	1	78	1.28
204	Court Reporters Certification Board	1	0	1	2	50.00
772	School for the Deaf	1	0	1	323	0.31
346	Council on Sex Offender Treatment	0	0	0	2	0.00
320	Workforce Commission	0	0	0	0	0.00
474	Polygraph Examiners Board	0	0	0	1	0.00
507	Board of Nurse Examiners	0	0	0	44	0.00
	<b>TOTALS</b>	<b>2,598</b>	<b>11,051</b>	<b>13,649</b>	<b>*144,131</b>	<b>9.47</b>

\*Full-time exempt and classified employees