

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency State Personnel Board
Rule No. 670-x-1
Rule Title: Organization
_____ New Amend _____ Repeal _____ Adopt by Reference _____

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No _____

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? No _____

Is there another, less restrictive method of regulation available that could adequately protect the public? No _____

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No _____

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No _____

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes _____

Does the proposed rule have an economic impact? No _____

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer *Jacqui Graham*
Date 3/19/15

(DATE FILED)
(STAMP)

APA-2
07/04

ALABAMA STATE PERSONNEL BOARD

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama State Personnel Board

RULE NO. & TITLE:

670-X-1: Organization
670-X-2: Application of Policy and Rules
670-X-3: Definitions
670-X-4: Prohibition of Discrimination
670-X-5: Meetings, Minutes and Hearing Procedure
670-X-6: Responsibilities of the State Personnel Director
670-X-7: Position Classification Plan
670-X-8: Pay Plan and Pay Administration
670-X-9: Personnel Selection Procedures
670-X-10: The Working Test (Probationary) Period
670-X-11: Hours of Work
670-X-12: Holidays
670-X-13: Annual Leave (Vacation)
670-X-14: Sick Leave
670-X-15: Other Types of Leave
670-X-16: Performance (Service) Ratings
670-X-17: Records and Reports
670-X-18: Separations from Service
670-X-19: Employee Work Rules

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

670-X-1: Organization

The changes are not substantive and are only grammatical.

670-X-2: Application of Policy and Rules

The change will mirror the statutory language of Ala. Code, 1975, § 36-26-9.

670-X-3: Definitions

The changes are clarification changes, such as adding the definitions of job abandonment, separation during probation, and retirement.

670-X-4: Prohibition of Discrimination

The changes are simply updates to terminology.

670-X-5: Meetings, Minutes and Hearing Procedure

There are minor changes that reference statutory authority or clarify the hearing procedure. One addition was made to allow the hearing officer to dismiss an appeal should the employee fail to prosecute his or her case. Also, if the employee fails to attend the hearing, he or she forfeits his or her right to oral argument before the Board.

670-X-6: Responsibilities of the State Personnel Director

The changes are simple language clarifications.

670-X-7: Position Classification Plan

There are minor word changes throughout. There is an addition that the Governor must approve new classes and pay range changes. There will be a change under 670-X-7-.06 to increase the time that an incumbent must perform the duties for the reallocated classification from three months to one year. There is also an addition that an employee that is reallocated will be given permanent status in the new class and will not be eligible for a promotional or probationary increase. Paragraphs 6 and 7 under 670-X-7-.06 will be deleted.

670-X-8: Pay Plan and Pay Administration

There are minor wording changes throughout the chapter. There is an addition to 670-X-8-.01 that the State fiscal officer will be consulted on all of the maintenance and administration of the pay plan. Delete the archaic "impossibility" language in 670-X-8-.02. Also, there is an addition that an above the minimum appointment will be based on the employee's prior salary or experience of the new employee or competitive market. Under 670-X-8-.04(2), there is clarification of the procedures in the event raises are frozen. Also, there will be a cap of two steps for annual merit raises. There is a complete revision of demotions. There is a provision added to allow an employee to voluntarily diminish his or her salary under 670-X-8-.09(b). Under 670-X-8-.11, there is a provision that an employee will not receive a salary increase upon a transfer to a new agency.

670-X-9: Personnel Selection Procedures

There are wording and clarification changes throughout the chapter. Under 670-X-9-.01, an applicant must certify the truthfulness of his or her application. Any falsification may result in removal and bar from any and all employment registers. Under 670-X-9-.02, a probationary employee that is laid off will have to finish his or her probationary period upon reemployment. An applicant may request to be placed inactive on a register rather than be removed from the register. Limited tenure has been added under 670-X-9-.03. Under 670-X-9-.04, the State Personnel Director will be allowed to place an employee in a comparable classification for demotion purposes. Also, the rule is redefined to be more specific as to the rights of classified employees appointed to unclassified and exempt positions.

670-X-10: The Working Test (Probationary) Period

Clarification changes were made. Rule 670-X-10-.03 is deleted due to duplication in a previous rule.

670-X-11: Hours of Work

There are wording and clarification changes throughout the chapter. The requirement of the same number of hours for all positions in a classification is being deleted. The additions are as follows: (1) that FLSA exempt employees do not earn paid overtime or compensatory time without the approval of the State Personnel Board; (2) that the employee will be liable for any repayment of time improperly credited or paid; (3) that compensatory time may not be taken to work a second job during his or her regular work schedule; and (4) that subsistence for authorized law enforcement officers will be prorated in accordance with the actual time that the employee performs his or her duties as a law enforcement officer.

670-X-12: Holidays

The changes bring the chapter into statutory compliance with Ala. Code, 1975, § 1-3-8.

670-X-13: Annual Leave (Vacation)

There are statutory updates throughout this chapter. The additions are as follows: that employment time where leave was not accumulated in accordance with these rules will not be used in length of service calculations, and that an employee may not use annual leave to work a second job during his or her regular work schedule. There are clarification that an employee will be paid a maximum of 480 hours of accumulated annual leave in his or her career, and that an employee may not return to State service until he or she has been absent from State service for longer than the payment of annual leave.

670-X-14: Sick Leave

There are wording and clarification changes as well as changes to bring the chapter into statutory compliance. There is an addition that an employee will only be compensated for a maximum of 600 hours of accumulated sick leave in his or her career. There is an addition that an appointing authority may require an employee to maintain a minimum number of sick leave hours.

670-X-15: Other Types of Leave

There are wording and clarification changes as well as changes to bring the chapter into statutory compliance. One addition states that leave without pay may not be used for the employee to work during his or her regular work schedule.

670-X-16: Performance (Service) Ratings

The changes are clarification changes.

670-X-17: Records and Reports

The changes bring the chapter into statutory compliance.

670-X-18: Separations from Service

There are clarification and statutory changes throughout this chapter. There are additional changes that at the discretion of the appointing authority, an employee in an abolished position may move to a position in a lower classification and that at the discretion of the appointing authority and the approval of the State Personnel Director, a permanent employee may bump another employee during a layoff. Another change adds that an employee who abandons his or her position will have his or her action treated as a voluntary resignation.

670-X-19: Employee Work Rules

The changes remove outdated work rules, add new work rules, and move some work rules to the section that allows for suspension or discharge on the first offense, including “conduct unbecoming a State employee.”

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments can be presented at the public hearing scheduled at 9:00 am on Thursday, April 30, 2015 at the Alabama State Personnel Department located at the Folsom Administrative Building, 64 North Union Street, Room 319, Montgomery, Alabama 36130. Written comments may be addressed to the Tara Hetzel, Alabama State Personnel Department, at the same address or at www.personnel.alabama.gov. Written comments must be received by the close of business on Tuesday, May 5, 2015.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, May 5, 2015

CONTACT PERSON AT AGENCY:

Tara Hetzel, General Counsel
334-353-0046



(Signature of officer authorized to
promulgate and adopt rules)

**ALABAMA STATE PERSONNEL BOARD
ALABAMA STATE PERSONNEL DEPARTMENT
ADMINISTRATIVE CODE**

**CHAPTER 670-X-1
ORGANIZATION**

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Under and by virtue of the power and authority vested in me and as Personnel Director for the State of Alabama (Code of Ala. 1975, Title 36, Chapter 26), I do hereby promulgate the following rules and regulations heretofore duly adopted by the Alabama State Personnel Board and the Governor of the State of Alabama.

670-X-1-.01 Merit System Law. The Merit System Law was passed on March 2, 1939.

Author:

Statutory Authority: Code of Ala. 1975, § 36-26-1.

History: Filed September 29, 1981. Amended: March 19, 2015, effective _____.

670-X-1-.02 Purpose of Law. To assure to all citizens of demonstrated capacity, ability and training an equal opportunity to compete for service with the State of Alabama, to establish conditions in the state service which will attract officers and employees of character and capacity and to increase the efficiency of the governmental departments and agencies by the improvement of methods of personnel administration.

Author:

Statutory Authority: Code of Ala. 1975, § 36-26-3.

History: Filed September 29, 1981.

670-X-1-.03 State Personnel Department:

Composition, Executive Head, Offices. The Merit System Law provides for a State Personnel Department with a State Personnel Board and a State Director of Personnel, with the Director as head of the department. The law also ~~provided~~ provides for offices to be located in the City of Montgomery as headquarters of the ~~department~~ Department.

Author:

Statutory Authority: Code of Ala. 1975, § 36-26-4.

History: Filed September 29, 1981. **Amended:** March 19, 2015, effective_____.

670-X-1-.04 State Personnel Board:

Appointments, Qualifications, Removal, Compensation.

General.

(a) Appointment. The Personnel Board consists of five persons who serve six-year staggered terms. Two persons are appointed by the Governor, one by the ~~lieutenant-governor~~ Lieutenant Governor, one by the ~~speaker~~ Speaker of the ~~house~~ House of ~~representatives~~ Representatives, and one is a classified employee elected by a majority vote of full-time state employees. Each member is required to take the constitutional oath of office before entering upon his duties. One member is designated by the Board to serve as chairman. Three members constitute a quorum for the transaction of business₇. ~~and any~~ Any vacancy in the membership is filled by the original appointing authority, except the elected member seat, for the unexpired term.

(b) Qualifications. Each member must be a person over 19 years of age, of recognized character and ability, must have been a bona fide resident and a qualified voter of Alabama for not less than five years, and must not, when appointed nor for three years then last past before the date of his appointment, have held elective public or party office nor have been a candidate for such office. No two members can be appointed from any one congressional district of the state.

(c) Removal. A member of the Board may be removed from office for the same causes and by the same procedure as provided by the Constitution and statutes of Alabama for the impeachment of sheriffs.

(d) Compensation. Each member of the Board receives a per diem of \$50.00 and expenses for attendance upon meetings of the Board. No member can receive total compensation in excess of \$1,200.00 per annum, excluding expenses and compensation received for attendance upon trials of charges preferred against employees as provided in the Law.

(e) Election requirements. Two months prior to the expiration of the seat for the **member of the classified** service, employees desiring to serve shall file with the ~~state comptroller~~ State Comptroller notice of their intent to run for the position.

Author:

Statutory Authority: Code of Ala. 1975, §§ 36-26-5, 36-26-27, 36-1-11, et. seq.

History: Filed September 29, 1981. **Amended:** March 19, 2015, effective _____.