

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency State Personnel Board
Rule No. 670-X-13
Rule Title: Annual Leave (Vacation)
_____ New X _____ 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 Stahem
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)

**CHAPTER 670-X-13
ANNUAL LEAVE (VACATION)**

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670-X-13-.01 Employees Entitled To Annual Leave.

Employees in permanent positions, who are regularly employed by the State and who are subject to the provisions of the State Merit System, including provisional appointees, shall earn annual leave (vacation) with pay on the basis of semi-monthly pay periods. Annual leave shall not accrue except when an employee is actually working or on authorized leave with pay and in no case shall leave accrue subsequent to actual separation from state service.

Author: Jackie B. Graham, State Personnel Director

Statutory Authority: Code of Ala. 1975, §§36-6-1(b), (d); 36-2-9; 36-26-35.

History: Filed September 29, 1981. **Amended:** Filed February 28, 1991. **Amended:** Filed May 22, 2006; effective June 26, 2006. **Amended:** March 19, 2015, effective.

670-X-13-.02 Annual Leave Schedule.

<u>Employee's total service</u>	<u>Accumulation of leave per pay period</u>	<u>Annual Accumulation</u>
Fewer than 5 years	4 hours	13 days
5 but less than 10 years	5 hours	16 days 2 hours
10 but less than 15 years	6 hours	19 days 4 hours
15 but less than 20 years	7 hours	22 days 6 hours
20 but less than 25 years	8 hours	26 days

~~25 years of service or more 9 hours 29 days 2 hours~~

Author:

Statutory Authority: ~~Code of Ala. 1975, §36-26-35.~~

History: ~~Filed September 29, 1981.~~

~~NOTE: Beginning with the payday on April 3, 2006, all persons who are regularly employed by the state and who are subject to the provisions of the state Merit System, and all legislative personnel, officers, and employees, including, but not limited to, Legislative Reference Service personnel, whether subject to the state Merit System or not, shall be entitled to accumulate annual leave on the basis of semi-monthly pay periods as follows:~~

<u>Employee's total service</u>	<u>Accumulation of leave per pay period</u>	<u>Annual Accumulation</u>
Fewer than 5 years	4 hours 20 minutes	13 days
5 but less than 10 years	5 hours 25 minutes	16 days 2 hrs
10 but less than 15 years	6 hours 30 minutes	19 days 4 hrs
15 but less than 20 years	7 hours 35 minutes	22 days 6 hrs
20 but less than 25 years	8 hours 40 minutes	26 days
25 years or more	9 hours 45 minutes	29 days 2 hrs

~~Code of Ala. 1975, § 36-36-35.~~

~~This revision to annual leave accumulation will be reflected in future amendments to the Rules of the State Personnel Board.~~

Author:

Statutory Authority: Code of Ala. 1975, §36-26-35.

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

670-X-13-.03 Length Of Service Defined. For purposes of this section, service shall mean paid employment in a ~~permanent~~ position eligible for leave accruals. The following shall not be counted as periods of employment in determining eligibility for increased leave:

- (a) Educational leave with or without stipend~~7~~.
- (b) Other approved leave without pay.

(c) Time employed in a position where leave was not accumulated in accordance with this Chapter.

Author: Halycon Vance Ballard

Statutory Authority: Code of Ala. 1975, §36-26-35.

History: Filed September 29, 1981. **Amended:** Filed February 28, 1991. **Amended:** March 19, 2015,
effective_____.

670-X-13-.04 Use Of Annual Leave. Employees may use accumulated annual leave accumulated with the approval of their respective appointing authorities, ~~at the time they prefer,~~ subject always to the right of the appointing authorities to plan the work under their control and to authorize leave at such time as the employee can best be spared. However, no employee shall engage in any other employment during his scheduled working hours.

Author:

Statutory Authority: Code of Ala. 1975, §36-1-11,
§36-26-35.

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

670-X-13-.05 Carry-Over Of Annual Leave. No more than ~~sixty days~~ 480 hours of accumulated annual leave may be carried over beyond the end of the calendar year.

Author:

Statutory Authority: Code of Ala. 1975, §36-26-35.

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

670-X-13-.06 Payment Of Accumulated Leave Upon Separation From Service.

(1) Upon separation from service, an employee shall be paid for the actual number of ~~days~~ hours of annual leave he has earned accumulated, up to a maximum of ~~sixty days~~ 480 hours in an employee's career, with the amount being computed ~~on the basis of the daily~~ using the base hourly pay rate at the time of separation multiplied by the number of ~~days~~ hours of leave due. ~~Provided, however, that should such separation be for cause arising out of actions or a course of conduct on the part of the employee contrary~~

~~to justice, honesty, or good morals such as to constitute moral turpitude such payment for annual leave shall not be made. Action taken under this provision of the rule must be documented by the appointing authority and concurred in by the Personnel Director.~~

~~(2) This proviso shall be applied prospectively to leave that accrues after April 5, 1991. Leave accrued prior to that date shall be paid without regard to this proviso. In determining leave accrued, leave taken by an employee during his employment is charged against the earliest leave accrued.~~

(3 2) Should an employee return to service, his absence must be for a longer period of time than the amount of annual leave paid.

Author: Halycon Vance Ballard

Statutory Authority: Code of Ala. 1975, §36-26-35.

History: Filed September 29, 1981. **Amended:** Filed February 28, 1991. **Amended:** March 19, 2015,
effective_____.

670-X-13-.07 Leave For Permanent Part-Time Employees.

Permanent part-time employees shall earn leave on a basis proportional to the time they worked in their permanent part-time positions.

Author:

Statutory Authority: Code of Ala. 1975, §36-26-35.

History: Filed May 24, 1985. **Amended:** March 19, 2015,
effective_____.

670-X-13-.08 Transfer Of Leave Into The State Merit System.

(1) Persons entering the state merit system may not transfer into the state merit system annual leave accumulated in a non-merit system employment positions with the following exception:

(a) Individuals employed by a non-merit system State agency or entity, who accumulate leave in accordance with the procedures established by the Rules of the State Personnel Board may transfer their accumulated annual leave

into the state merit system provided the appointing authority approves the acceptance of the leave. The non-merit system State agency or entity must certify the amount of leave the employee has accumulated and further certify that the accumulation of leave is in accordance with procedures established by the Rules of the State Personnel Board. This provision does not apply to public schools and public postsecondary institutions.

Author: Thomas G. Flowers

Statutory Authority: Code of Ala. 1975, §36-26-9.

History: Filed May 24, 1985. **Amended:** Filed August 13, 2001; effective September 17, 2001. **Amended:** March 19, 2015, effective_____.