

## TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control No. \_\_\_\_\_ Department or Agency State Personnel Board  
Rule No. 670-X-16  
Rule Title: Performance (Service) Ratings  
\_\_\_\_\_ 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 \_\_\_\_\_

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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.

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### 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](http://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-16  
PERFORMANCE (SERVICE) RATINGS**

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- 670-X-16-.01 General Information**
- 670-X-16-.02 Use of Ratings**
- 670-X-16-.03 Inspection of Ratings**

**670-X-16-.01 General Information.** In compliance with the Act requiring periodic service ratings for all employees, the Director shall maintain a service rating system which will require ratings to be furnished to the Personnel Department at specified intervals. The Director shall provide the forms and establish standards for a uniform system which may be changed or amended as for the good of the service ~~requires~~.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-22.

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

**670-X-16-.02 Use Of Ratings.** Service ratings shall be considered in determining salary increases and decreases within the limits established by law and by the pay plan; as a factor in promotional tests exams; as a factor in determining the order of layoff when forces must be reduced because of lack of funds or work, ~~and the order in which names are to be placed on reemployment lists~~; and as a means of ~~discovering~~ identifying employees who should be promoted, demoted, transferred, or dismissed.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-22.

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

**670-X-16-.03 Inspection Of Ratings.** Any employee shall be given reasonable opportunity to inspect the records of the Department which show his service ratings and the service ratings of other employees in the same class and division.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-22.

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