

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency State Personnel Board
Rule No. 670-X-8
Rule Title: Pay Plan and Pay Administration
_____ 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 Jackie 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)

**CHAPTER 670-X-8
PAY PLAN AND PAY ADMINISTRATION**

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670-X-8-.01 Authorities And Responsibilities. The Director shall administer and maintain the pay plan subject to such approvals by the Board as are required by law or these rules after consulting with State fiscal officers. The Director shall determine the assignment of classes to salary ranges in the salary schedule in consideration of prevailing rates of pay in outside private and public employment for comparable work, recruiting and turnover experience, the relative value and importance of classes in the state service, the maintenance and benefits received by state employees, the state's financial condition and economic policies, and other relevant factors. The Director may from time to time recommend across-the-board percentage adjustment of the rates in the salary schedule in consideration of significant changes in overall prevailing rates of pay and the cost of living. The Director shall make or cause to be made appropriate surveys of prevailing rates and benefit practices in the Alabama and other pertinent labor markets, ~~including a comprehensive survey of the Alabama market at least once every five years.~~ The Director shall recommend any amendment to the pay plan that will correct inequities or bring about improvements in salary administration either on

his own initiative or at the direction of the Board or of the Governor, or upon request of an appointing authority.

Author:

Statutory Authority: Code of Ala. 1975, §36-26-12.

History: Filed September 29, 1981. **Amended:** Filed February 23, 1983. **Amended:** March 19, 2015,
effective_____.

670-X-8-.02 Salary Rates Upon Initial Appointment. The salary rate of a new employee upon entrance into the service shall normally be the minimum rate of the range for the class of positions to which appointed. ~~In the event that it should prove impossible to obtain qualified personnel at such rate, t~~ The appointing authority may recommend and the Director may approve a hiring rate above the minimum rate but not to exceed the Base Mmaximum Rrate of the range. The above the minimum hiring rate will be based on the recent salary or experience of the new employee or competitive market.

Author:

Statutory Authority: Code of Ala. 1975, §36-26-12.

History: Filed September 29, 1981. **Amended:** Filed February 23, 1983. **Amended:** March 19, 2015,
effective_____.

670-X-8-.03 Salary Rate Upon Promotion. The salary rate of an employee who is promoted may be increased to that rate in the higher range that will provide an increase of up to ~~four~~ two increments pay steps (about approximately 10 5%). An employee shall not be paid less than the minimum rate of the higher range. The promotional salary increase shall be effective on the date of promotion, which shall always be at the beginning of a semi-monthly pay period. No performance salary advance shall be made during the probationary period. Upon successful completion of probation, ~~an advance shall be made~~ a salary increase can be recommended by the appointing authority in accordance with the rule governing the same, and the anniversary date shall then be changed as provided in such rule (670-X-8-.04). In the event that the employee does not successfully complete probation and is returned to ~~the~~ his former position, the rate of the employee shall be adjusted to the rate paid before promotion or to that higher rate

the employee might have achieved had the anniversary date occurred during the probationary period ~~in the higher position~~; in this case, the anniversary date remains the same as it was prior to promotion.

Author: Jackie B. Graham, State Personnel Director
Statutory Authority: Code of Ala. 1975, §§36-6-1(d), 36-26-9.

History: Filed September 29, 1981. **Amended:** Filed February 23, 1983; April 17, 1984. **Emergency Rule:** Filed April 17, 1985. **Amended:** Filed February 28, 1991.

Amended: Filed May 22, 2006; effective June 26, 2006.

Amended: March 19, 2015, effective_____.

670-X-8-.04 Performance Salary Advances.

(1) Upon Completion of Probation: A probationary ~~appointee~~ employee who has successfully completed probation may be granted a performance salary ~~advance~~ increase effective at the beginning of the first semi-monthly pay period after the conclusion of the probationary period, and the first day of that pay period shall be the employee's anniversary date for future salary administration purposes. The salary advance may be one or two steps, depending upon the manner of performance of the employee during probation, as recommended by the employee's immediate supervisor and approved by the appointing authority, with report to the Director of the action to be taken.

(2) Annual Consideration: Every employee shall be considered for a performance salary advance each year on the anniversary date of the last salary increase, unless he has reached the maximum of the range or merit raises are frozen. The appointing authority shall determine the amount of the increase to be granted, if any, in accordance with the following table, and report the action to be taken to the Director in the manner he may prescribe. ~~Provided that if the employee's performance has deteriorated since the last annual service rating to the extent that a lesser or no pay increase is warranted, the appointing authority may award such lesser or no pay increase in his discretion upon submittal of a special revised performance rating.~~ The granting of across-the-board cost-of-living raises by the Legislature does not change the consideration date for performance salary advances. If merit raises have been

frozen and the freeze is lifted, current anniversary dates will be maintained for all state employees. Agencies are prohibited from adjusting employee anniversary dates to obtain merit pay increases at an earlier date.

<u>Service Rating</u>	<u>Number Of Steps For Performance Increase</u>
Does not - <u>Not</u> Meet Standards	0
Partially Meets Standards	0
Meets Standards	#1
Exceeds Standards	#2
Consistently Exceeds Standards	#3 or #4 - <u>2</u>

#But not to exceed the maximum rate of the range.

(3) Special Merit Raises. Any recommendation for any increase interval of less than one year or which does not comply with the prescribed number of steps to be given for a specific performance level will be made by the appointing authority directly to the ~~Personnel~~ Board, ~~on~~ in a form prescribed by the ~~Personnel~~ Director, will be acted on individually, and will be recorded in the minutes. The granting of a Special Merit Raise changes the consideration date for regular performance salary advances.

Author: Jackie B. Graham, State Personnel Director
Statutory Authority: Code of Ala. 1975, §§36-6-1(d), 36-26-9.

History: Filed September 29, 1981. **Amended:** Filed February 23, 1983; March 17, 1983. **Emergency rule** filed April 21, 1983. **Amended:** Filed June 17, 1983; April 17, 1984. **Emergency rule** filed April 17, 1985.
Amended: Filed May 22, 2006; effective June 26, 2006.
Amended: March 19, 2015, effective_____.

670-X-8-.05 Salary Rate Upon Return To Duty Work After Resignation. The salary rate of an employee who returns to ~~duty~~ work after voluntary resignation in good standing and appointment from a reemployment register may be assigned the rate closest to the salary at the time of resignation, without reduction in pay.

Author:

Statutory Authority: Code of Ala. 1975, §36-26-12.

History: Filed September 29, 1981. **Amended:** Filed February 23, 1983. **Amended:** March 19, 2015,
effective_____.

670-X-8-.06 Salary Rate Of Incumbents In A Class

Reassigned To A Higher Salary Rate Range. When a class is reassigned to a higher salary range, the salary rate of each incumbent shall be adjusted at least to the minimum rate of the higher range, or may be adjusted to not more than the corresponding rate in the new range closest to the salary at the time of the reassignment, without a reduction in pay.

Author:

Statutory Authority: Code of Ala. 1975, §36-26-12.

History: Filed September 29, 1981. **Amended:** Filed February 23, 1983. **Amended:** March 19, 2015,
effective_____.

670-X-8-.07 Salary Rate Of Incumbent Of A Position

Reallocated To A Class Of Positions Assigned To A Higher Salary Range. In the event that a position is reallocated to a higher class by reason of significant changes in duties and increases in responsibility or complexity, the salary rate of the incumbent shall be adjusted to the minimum rate of the range for the higher class or may be adjusted to the rate in the new range closest to the former rate of the incumbent, without a reduction in pay.

Author:

Statutory Authority: Code of Ala. 1975, §36-26-12.

History: Filed September 29, 1981. **Amended:** Filed February 23, 1983.

670-X-8-.08 Salary Rate Upon Demotion. Upon demotion,

~~of an the employee's for disciplinary reasons to a position of a class assigned to a lower salary range, the salary rate of the employee shall be adjusted to that rate in the lower range that the employee would have attained had he remained in the lower classification. as may be recommended by the appointing authority and approved by the Director, provided that the new rate shall not be higher than the~~

~~maximum rate in the lower salary range. Upon voluntary demotion, if the employee had two years or more of status in the higher level, he may retain the salary rate achieved if that rate is within the salary range of the lower level. of an employee for reasons other than disciplinary, the salary rate of the employee may be the last rate paid prior to the demotion or the maximum rate of the lower range, whichever is the lower. This section does not apply to a voluntary demotion in lieu of a layoff.~~

Author:

Statutory Authority: Code of Ala. 1975, §36-26-12.

History: Filed September 29, 1981. **Amended:** Filed February 23, 1983. **Amended:** March 19, 2015, effective_____.

670-X-8-.09 Salary Reduction Within Range.

(a) An appointing authority may reduce the salary of any employee to a lower rate in the range for the position with approval of the Board. In such cases, at least 10 days before the recommended action is to take place, the appointing authority shall notify the employee and submit the recommendation in writing with the reasons therefor to the Director. When such action is approved, the anniversary date of the employee shall be changed to the effective date of the salary reduction.

(b) Any person who holds a position with the state may voluntarily diminish his compensation. Such rate must still be in the salary range for the respective classification. The employee will sign an acknowledgment stating his position and the rate to which he desires to diminish his compensation.

Author:

Statutory Authority: Code of Ala. 1975, §36-26-12.

History: Filed September 29, 1981. **Amended:** Filed February 23, 1983. **Amended:** March 19, 2015, effective_____.

670-X-8-.10 Limitations On Available Funds.

Notwithstanding the provisions of this rule, no salary action shall be taken unless authorized funds ~~therefor~~ are available. In the event that any salary action provided for in this rule cannot be taken because of unavailability

of funds, the appointing authority shall so advise the Director in writing, and the actions shall be held in abeyance only until sufficient funds become available. Prior to payment of any salary, wage or other compensation for personal service, the Director shall certify that each person named on the payroll, estimate, voucher, or account is an employee of the state, has been appointed or employed in pursuance to law and these rules, and is legally entitled to receive the sum stated therein.

Author:

Statutory Authority: Code of Ala. 1975, §36-26-12.

History: Filed September 29, 1981. **Amended:** Filed February 23, 1983. **Amended:** March 19, 2015,
effective_____.

670-X-8-.11 **Prohibition Of Raise.** No employee shall be entitled to or receive an increase in salary upon a transfer, unless otherwise provided for in these rules.

Author:

Statutory Authority: Code of Ala. 1975, §36-26-12.

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