

**CHAPTER 91****(HB 340)**

AN ACT relating to personnel.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

- (1) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the secretary;
- (2) "Base salary or wages" means the compensation to which an employee is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;
- (3) "Board" means the Personnel Board created by KRS 18A.045;
- (4) "Career employee" shall mean a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof;
- (5) "Certification" means the referral of the name of one (1) or more qualified prospective employees by the secretary on request of an appointing officer for consideration in filling a position in the classified service;
- (6) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;
- (7) "Classified employee" means an employee appointed to a position in the classified service whose appointment and continued employment are subject to the classified service provisions of this chapter;
- (8) "Classified position" means a position in the executive branch of state government that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115, KRS Chapter 151B, or any other provision of law;
- (9) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;
- (10) "Secretary" means the secretary of the Personnel Cabinet as provided for in KRS 18A.015;

- (11) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility;
- (12) "Cabinet" means the Personnel Cabinet provided for in KRS 18A.015, unless the context indicates otherwise;
- (13) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.010 to 18A.200 and who has qualified to be placed on a register;
- (14) "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time, part-time, or interim basis;
- (15) "Full-time employee" means an employee in a full-time position;
- (16) "Full-time position" means a position, other than an interim position, requiring an employee to work at least thirty-seven and one-half (37.5) hours in a work week, except for the following:
  - (a) Positions in the state parks, where the work assigned is dependent upon fluctuations in tourism, may be assigned work hours from twenty-five (25) hours per week during the off seasons and remain in full-time positions; and
  - (b) Positions in health care facilities, which regularly involve three (3) consecutive days of twelve (12) hour shifts to cover weekends, shall be considered full-time;
- (17) "Initial probation" means the period of service following initial appointment to any position under KRS 18A.010 to 18A.200 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted leave in excess of twenty (20) consecutive work days during this period, his initial probation shall be extended for the same length of time as the granted leave to cover such absence. "Initial probation" does not include a probationary period served by a laid-off employee who accepts a bona fide written offer of appointment;
- (18) "Interim employee" means an unclassified employee without status who has been appointed to an interim position that shall be less than nine (9) months duration;
- (19) "Interim position" means a position established to address a one time or recurring need of less than nine (9) months duration and exempt from the classified service under KRS 18A.115;
- (20) "Part-time employee" means an employee in a part-time position;
- (21) "Part-time position" means a position, other than an interim position, requiring an employee to work less than one hundred (100) hours per month;
- (22) "Penalization" shall include, but not be limited to, demotion, dismissal, suspension, fines and other disciplinary actions, involuntary transfers; salary adjustments; any action that diminishes the level, rank, discretion, or responsibility of an employee without proper cause, including a reclassification or reallocation; and the abridgement or denial of other rights granted to state employees;
- (23) "Position" means an office or employment in an agency (whether part-time, full-time, or interim, occupied, or vacant) involving duties requiring the services of one (1) person;

- (24) "Promotion" means a change of rank of an employee from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;
- (25) "Promotional probation" means the period of service, consistent with the length of the initial probationary period, following the promotion of an employee with status which must be successfully completed in order for the employee to retain the position to which he has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his promotional probation shall be extended for the same length of time as the granted leave to cover such absence;
- (26) "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employee has been and shall continue to perform;
- (27) "Reclassification" shall mean the change in the classification of an employee when a material and permanent change in the duties or responsibilities of that employee occurs;
- (28) "Reemployment" shall mean the rehiring of an employee with status who has been laid off;
- (29) "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of layoff. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;
- (30) "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;
- (31) "Reinstatement" shall mean the restoration of an employee who has resigned in good standing, or who has been ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;
- (32) ***"Reversion" means either the returning of a status employee to his or her last position held in the classified service, if vacant, or the returning of a status employee to a vacant position in the same or similar job classification as his or her last position held in the classified service. Reversion occurs after a career employee is terminated other than for cause from the unclassified service or after a status employee fails to successfully complete promotional probation. Reversion after unsuccessful completion of promotional probation, or in the case of a career employee after termination from the unclassified service, may only be appealed to the Personnel Board under KRS 18A.095(13);***
- (33) "Seniority" means the total number of months of state service;
- ~~(34)~~~~(33)~~ "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employee in the classified service;
- ~~(35)~~~~(34)~~ "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service, and the same salary received immediately prior to transfer.

Section 2. KRS 18A.0751 is amended to read as follows:

- (1) The board shall promulgate comprehensive administrative regulations for the classified service governing:

- (a) Appeals by state employees;
  - (b) Demotion;
  - (c) Dismissal;
  - (d) Fines, suspensions, and other disciplinary measures;
  - (e) Probation, provided that the board may not require an initial probationary period in excess of six (6) months except as provided in subsection (4)(e) of this section and KRS 18A.005;
  - (f) Promotion;
  - (g) Reinstatement;
  - (h) Transfer; and
  - (i) Employee grievances and complaints.
- (2) (a) These administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;
- (b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and
- (c) No administrative body, other than the personnel board, shall promulgate administrative regulations governing the subject matters specified in this section.
- (3) Prior to filing an administrative regulation with the Legislative Research Commission, the board shall submit the administrative regulation to the secretary for review:
- (a) The secretary shall review the administrative regulation proposed by the board not **more**~~less~~ than twenty (20) days after its submission to him;
- (b) Not **more**~~less~~ than five (5) days after his review, the secretary shall submit his recommendations in writing to the board;
- (c) The board shall review the recommendations of the secretary and may revise the proposed administrative regulation as it deems necessary; and
- (d) After the board has completed the review provided for in this section, it may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.
- (4) These administrative regulations shall provide:
- (a) For the procedures to be utilized by the board in the conduct of hearings by the board, consistent with the provisions of KRS Chapter 13B;
- (b) For reduction in rank or grade as provided by this chapter;
- (c) For discharge, as provided by this section;
- (d) For imposition, as disciplinary measures, of a fine of not more than ten (10) working days' pay, or for suspension from the service without pay for no longer than thirty (30)

working days and, in accordance with the provisions of KRS 18A.095, for the manner of notification of the employee of the discipline and his right of appeal;

- (e) No probationary period may exceed twelve (12) months, except as provided in KRS 18A.005. The secretary may recommend an initial probationary period in excess of six (6) months for specific job classifications to the board. This recommendation shall take the form of a proposed administrative regulation that shall be submitted to the board for approval. The subject of the administrative regulation shall be limited to job classifications for which an initial probationary period in excess of six (6) months is required and shall specify:
1. The job classification for which an initial probationary period in excess of six (6) months is required; and
  2. The specific number of months constituting the initial probationary period for the job classification. No other administrative regulation shall include any provision prescribing an initial probationary period in excess of six (6) months, except as provided in KRS 18A.005. Upon approval by the board of the proposed administrative regulation provided for in this paragraph, the board shall file the regulation with the Legislative Research Commission as provided by KRS Chapter 13A;
- (f) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct, and seniority. Except as provided by this chapter, vacancies shall be filled by promotion whenever practicable and in the best interest of the service;
- (g) For reemployment of laid-off employees in accordance with the provisions of this chapter;
- (h) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges as provided by the provisions of KRS 18A.1131(3)(a);
- (i) For establishment of a plan for resolving employee grievances and complaints. This plan shall not restrict rights granted employees by the provisions of this chapter;
- (j) For promotion of career employees to positions in the unclassified service without loss of status to the individual employees so promoted, as provided by this chapter; and
- (k) For any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.

Section 3. KRS 18A.080 is amended to read as follows:

- (1) Except as provided in KRS 18A.200, members of the board shall receive compensation of **one hundred dollars (\$100)**~~[sixty-five dollars (\$65)]~~ per diem for each meeting of the board and reimbursement for actual and necessary expenses in accordance with state regulations and standards applicable to state employees.
- (2) In addition to payments for attendance at board meetings all board members may also be paid **one hundred dollars (\$100)**~~[sixty-five dollars (\$65)]~~ for each day spent in the preparation of recommended orders, the review of transcripts or other matters related to appeals before the board.

- (3) Any board member missing three (3) consecutive regular meetings shall be deemed to have vacated his office. Replacements to the board shall be made as provided in KRS 18A.050(2) and 18A.060.

**Approved March 8, 2000**