

CHAPTER 122**(HB 589)**

AN ACT relating to state employees.

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) "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) "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.025 is amended to read as follows:

- (1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. He shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for

the required experience and additional experience may be substituted for the required education.

(2) The secretary of the Personnel Cabinet or his designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.

(3) There is established within the Personnel Cabinet the following offices and departments, each of which shall be headed by a commissioner appointed by the secretary, subject to the prior approval of the Governor, pursuant to KRS 12.050, except that the Kentucky Employees Deferred Compensation Authority shall be headed by an executive director who shall be appointed by the authority's board of directors:

(a) Office of the Secretary, composed of the:

1. Office of Administrative and Legal Services, which shall:

- a. Provide all administrative information systems management~~[- and legal services]~~ to the Cabinet;~~[- and]~~
- b. ***Provide legal services to the cabinet and to executive branch agencies and their representatives, upon request; and***
- c. Coordinate the state's affirmative action plan established in KRS 18A.138; and

2. Kentucky Public Employees Deferred Compensation Authority which shall be attached to the Office of the secretary for administrative purposes only. The authority shall be governed by a board of trustees composed of seven (7) members including the secretary of Finance and Administration, ex officio; the secretary of Personnel, ex officio; the state controller, ex officio; and four (4) at large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall represent a nonstate employer. The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A;

(b) Department for Personnel Administration, composed of the:

1. Division of Performance Management, which shall coordinate and implement the employee performance evaluation systems throughout state government;

2. Division of Employee Records, which shall:

- a. Maintain the central personnel files mandated by KRS 18A.020;
- b. Process personnel documents and position actions;
- c. Operate and maintain a uniform payroll system;
- d. Implement lay-off plans mandated by KRS 18A.113 to KRS 18A.1132;
- e. Certify payrolls as required by KRS 18A.125; and
- f. Monitor and assist state agencies in complying with the provisions of the Federal Fair Labor Standards Act (FLSA);

3. Division of Staffing Services, which shall:

- a. Operate a centralized applicant and employee counseling program;

- b. Operate the examination program for State employment;
 - c. Prepare registers of candidate employment;
 - d. Coordinate outreach programs, such as recruitment and the Administrative Intern Program; and
 - e. Construct merit examinations; and
4. Division of Classification and Compensation, which shall:
- a. Maintain plans of classification and compensation for the State Service; and
 - b. Review and evaluate the plans;
- (c) Department for Employee Relations, composed of the:
- 1. Division of Employee Benefits, which shall be responsible for administering and assisting state employees with the following benefits and programs:
 - a. Workers' Compensation (KRS 18A.375);
 - b. Life Insurance (KRS 18A.205 to KRS 18A.220);
 - c. Sick leave Sharing Program (KRS 18A.197);
 - d. Annual Leave Sharing Program;
 - e. Health and Safety Programs (OSHA); and
 - f. Assessment and referral services provided to state employees;
 - 2. Division of Communications and Recognition, which shall:
 - a. Communicate with state employees about personnel issues and other relevant issues through publications;
 - b. Administer the employee incentive programs established by KRS 18A.202; and
 - c. Provide dispute resolution assistance to state employees and agencies; and
- (d) Office of Public Employee Health Insurance, which shall be composed of the:
- 1. Health Insurance Program (KRS 18A.225); and
 - 2. Flexible Benefit Plan (KRS 18A.227).
- (4) The cabinet shall include principal assistants appointed by the secretary, pursuant to KRS 12.050, as necessary for the development and implementation of policy. The secretary may employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the department.

Section 3. KRS 18A.111 is amended to read as follows:

- (1) Except when appointed to a job classification with an initial probationary period in excess of six (6) months, and except as provided in KRS 18A.005, an employee shall serve a six (6) months probationary period when he is initially appointed to the classified service. An employee may be separated from his position, reduced in class or rank, or replaced on the eligible list during this initial probationary period and shall not have a right to appeal, except as provided by KRS 18A.095. ~~If the employee is separated from his position, he shall be~~

~~notified in writing at least ten (10) working days prior to separation. A copy of the notification shall be forwarded to the secretary.]~~ The employee ~~may~~**shall** be placed on an eligible list but shall not be certified to the agency from which he was separated unless that agency so requests. Unless the appointing authority notifies the employee prior to the end of the initial probationary period that he is separated, the employee shall be deemed to have served satisfactorily and shall acquire status in the classified service.

- (2) An employee who satisfactorily completes the initial probationary period for the position to which he was initially appointed to the classified service shall be granted status and may not be demoted, disciplined, dismissed, or otherwise penalized, except as provided by the provisions of this chapter.
- (3) An employee ordered reinstated by the board shall not be required to serve a probationary period unless the board rules otherwise~~[, as provided in KRS 18A.095]~~.
- (4) An employee with status, who has been promoted, shall serve a promotional probationary period of six (6) months, except for those employees granted leave in excess of twenty (20) consecutive work days during this period. Such probationary periods shall be extended as prescribed in KRS 18A.005. During this period, he shall retain the rights and privileges granted by the provisions of this chapter to status employees.
- (5) An employee with status may request that he be reverted to a position in his former class at any time during the promotional probationary period.
- (6) A laid-off employee who accepts a bona fide written offer of appointment to a position shall not be required to serve an initial probationary period.~~[Such an employee shall serve a promotional probationary period.]~~ He shall be an employee with status and shall have all rights and privileges granted employees with status under the provisions of this chapter.

Approved April 2, 2002