

**CHAPTER 153****(HB 149)**

AN ACT relating to executive branch employees and declaring an emergency.

*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 ~~and/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 ~~or~~ ~~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) "Federally funded time-limited employee" means an employee in the unclassified service, appointed to a position that is funded one hundred percent (100%) by a federal grant or grants. An employee appointed to a federally funded time-limited position shall be required to meet the minimum requirements for the classification in which he or she is hired and, subject to the provisions of KRS 18A.113, shall serve at the pleasure of the appointing authority during a period of time that shall not exceed the life of the federal grant that funds the position. A federally funded time-limited employee who has been aggrieved by notice of disciplinary action or termination, other than an action based on expiration of the federal grant funding, may petition the appointing authority of the agency for the opportunity to be heard by the appointing authority or his

designee prior to the effective date of the disciplinary action or termination. The decision of the appointing authority shall be final except as provided by KRS 18A.095(14) and 18A.140. A federally funded time-limited employee shall not have the right of appeal to the Personnel Board except as provided by KRS 18A.095(14) and 18A.140;

- (16) "Federally funded position" means a full-time or a part-time position in which the unclassified employee is eligible for benefits at the same level as a classified employee in a permanent position;
- (17) "Full-time employee" means an employee in a full-time position;
- (18) "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;
- (19) "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;
- (20) "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;
- (21) "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;
- (22) "Part-time employee" means an employee in a part-time position;
- (23) "Part-time position" means a position, other than an interim position, requiring an employee to work less than one hundred (100) hours per month;
- (24) "Penalization" ~~means~~ ~~shall include, but not be limited to,~~ demotion, dismissal, suspension, fines, and other disciplinary actions; ~~and~~ involuntary transfers; salary adjustments; any action that *increases or* diminishes the level, rank, discretion, or responsibility of an employee without proper cause *or authority*, including a reclassification or reallocation *to a lower grade or rate of pay*; and the ~~abridgment~~ ~~abridgement~~ or denial of other rights granted to state employees;
- (25) "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;
- (26) "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;
- (27) "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;
- (28) *"Qualifying" means the selection method type which results when the knowledge, skills, and abilities necessary for a job classification cannot be accurately measured by written examination;*
- (29) "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;
- ~~(30)~~ ~~(29)~~ "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 *has been assigned in writing by the appointing authority* ~~occurs~~;
- ~~(31)~~ ~~(30)~~ "Reemployment" shall mean the rehiring of an employee with status who has been laid off;

- (32)~~(31)~~ "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;
- (33)~~(32)~~ "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;
- (34)~~(33)~~ "Reinstatement" ~~means~~~~shall mean~~ the *privilege of* restoration of an employee who has resigned in good standing *at the option of the appointing authority*, 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;
- (35)~~(34)~~ "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(12);
- (36)~~(35)~~ "Seniority" means the total number of months of state service;
- (37)~~(36)~~ "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; and
- (38)~~(37)~~ "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.030 is amended to read as follows:

- (1) The secretary shall be the executive and administrative head of the cabinet and shall supervise and control all examinations and work of the cabinet. He shall advise the board on matters pertaining to the classified service of this state. Within the limitations of the budget, the secretary shall appoint and supervise the staff needed in the cabinet to carry out the purposes of KRS 18A.005 to 18A.200 except employees of the board who shall be appointed as provided in KRS 18A.090.
- (2) Subject to the provisions of this chapter and KRS Chapter 13A, the secretary shall, with the aid of his staff:
  - (a) Attend all meetings of the board;
  - (b) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;
  - (c) Establish general procedures for personnel recruitment, for certification, and for improving the efficiency of employed personnel;
  - (d) Appoint the examiners and technicians necessary for the conduct of the personnel program, whether on a permanent or temporary basis;
  - (e) Prepare and maintain a record of all employees, showing for each employee his name, address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make the data and the class specifications for all positions available to the press and public;
  - (f) Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and the administrative regulations adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;
  - (g) Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18A.005 to 18A.200;
  - (h) Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18A.005 to 18A.200 and administrative regulations prescribed thereunder;

- (i) Prepare, in cooperation with appointing authorities and others, programs for employee training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department to this end;
  - (j) Provide personnel services to unclassified employees in agreement with the agencies involved not otherwise provided for in KRS 18A.005 to 18A.200;
  - (k) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel system created by KRS 18A.005 to 18A.200, excluding the board, which shall present its own budget estimates;
  - (l) Make a report and submit the same to the board, the Legislative Research Commission, and the Governor not later than October first of each year;~~and~~
  - (m) ***Propose selection method changes for any classification to the Personnel Board with documentation justifying the need for the selection method change. The Personnel Board shall, at its next regularly scheduled monthly meeting, review and comment on any proposed selection method change. A classification shall not have its selection method changed without review and comment by the Personnel Board; and***
  - (n) Discharge the other duties imposed upon him by KRS 18A.005 to 18A.200.
- (3) The secretary on behalf of the cabinet may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.
- (4) The secretary shall keep records relative to employee turnover and report to the board, the Governor, and the Legislative Research Commission quarterly. The report shall reflect employee turnover rates by cabinet, department, bureau, division, and section. If any cabinet, department, bureau, division, or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the secretary shall conduct an investigation into the reasons for the turnover and report the findings to the board, the Governor, and the Legislative Research Commission.
- (5) The secretary shall provide to each new state employee and to each existing state employee, classified or otherwise, on an annual basis an informational pamphlet about human immunodeficiency virus infection and acquired immunodeficiency syndrome. The pamphlet shall be approved by the Cabinet for Health and Family Services and shall contain information about the nature and extent of these diseases, methods of transmission, preventive measures, and referral services.
- (6) ***The secretary shall establish and maintain a list of all filled positions exempted from classified service under paragraphs (e), (g), (h), (i), (k), (t), (w), (aa), and (ab) of subsection (1) of Section 10 of this Act. The list shall include the following information for each filled position:***
- (a) ***The name of the agency where the position is assigned;***
  - (b) ***The statutory authority for the unclassified status of the position;***
  - (c) ***The title of the position;***
  - (d) ***The pay grade of the position;***
  - (e) ***The annual salary of the employee in the position; and***
  - (f) ***The work county of the employee in the position.***
- (7) ***Beginning September 1, 2010, and every six (6) months thereafter, the secretary shall provide the Governor and the Legislative Research Commission with a copy of the list described in subsection (6) of this section, and shall indicate on the list any position that has been added to the list since the last submission.***

➔Section 3. KRS 18A.040 is amended to read as follows:

The board and the ~~secretary~~~~commissioner~~ shall see that rules, regulations and practices meeting federal merit system standards shall, where such standards apply as a prerequisite for federal grants-in-aid, be in effect continuously, notwithstanding any other provision of KRS 18A.005 to 18A.200.

➔Section 4. KRS 18A.045 is amended to read as follows:

- (1) There is hereby created a Personnel Board in which shall be vested the constitutional powers and responsibilities of officers of the Commonwealth. The board shall consist of seven (7) members, five (5) of whom shall be appointed by the Governor as provided in KRS 18A.050. Two (2) members of the board shall be elected by classified employees as provided in KRS 18A.0551.
- (2) *Personnel Board members shall not accept gifts as provided in KRS 11A.045(1), benefit under any contract or agreement as provided in KRS 11A.040(4), or fail to disclose to other members of the board any direct or indirect conflict of interest as described in KRS 11A.005(2)(c).*
- (3) Any person retaliating in any manner and any person ordering retaliation against a classified employee or a member of his family because he has participated in an election to the board, either by being a candidate or voting for a candidate, shall be subject to the provisions of KRS 18A.990.

➔Section 5. KRS 18A.050 is amended to read as follows:

- (1) Any person serving on the board on July 15, 1982, shall serve until the expiration of his current term of office. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was appointed as provided in subsections (2) and (3) of this section, except that a person appointed to fill a vacancy prior to the expiration of such term shall be appointed in the same manner as provided in KRS 18A.045 and for the remainder of such term.
- (2) Upon the expiration of the terms of office of the two (2) board members whose terms expire January 1, 1984, the Governor shall appoint two (2) members from a list of four (4) names submitted by the Legislative Research Commission. Thereafter, upon the expiration of these terms, such terms shall be filled in the same manner as provided in this subsection.
- (3) Upon the expiration of the terms of office, of the members whose terms expire December 31, 1982, January 1, 1985, and January 1, 1986, the Governor shall appoint citizens at large who are not associated with state government in any manner. Thereafter upon the expiration of these terms, such terms shall be filled in the same manner as provided in this subsection.
- (4) These five (5) appointments to the board shall be subject to confirmation by the Senate. If the Senate is not in session, these five (5) appointments shall be subject to review by the Interim Joint Committee on State Government which shall hold a public hearing and shall transmit its recommendations to the Senate.
- (5) The initial election of classified employees to the board shall be held as provided in KRS 18A.0551. The two (2) classified employees initially elected to the board shall serve until July 1, 1986. Subsequent elections shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was elected. If a vacancy occurs prior to the expiration of such term, the board shall fill the vacancy as provided in KRS 18A.060. ~~Effective for the election to be held in 1986 and all subsequent elections, a classified employee elected to the board shall not be eligible for reelection to the board for the four (4) year term succeeding the expiration of the term for which he shall have been elected. He shall also be ineligible to be appointed to fill a vacancy that occurs during the four (4) year term succeeding the expiration of the four (4) year term for which he shall have been elected. The classified employees elected to the board at the election held in 1982 shall be eligible for the 1986 election.~~
- (6) If an elected board member accepts an unclassified position with state government, his membership on the board shall be terminated immediately and the vacancy shall be filled as provided in KRS 18A.060.
- (7) If an elected board member accepts a classified position in a cabinet employing another board member or if, through no fault of his own, he is placed in that cabinet, his membership on the board shall not be terminated for the remainder of his term.

➔Section 6. KRS 18A.0551 is amended to read as follows:

- (1) (a) Elections to the board shall be scheduled every four (4) years on or before ~~June 15~~~~July 1~~. The board shall provide written notification of the date of the election to all classified employees on or before ~~April~~~~May~~ 1; and
- (b) Upon receipt of the notification provided for by paragraph (a) of this subsection, an employee wishing to serve on the board shall notify the board, in writing, no later than ~~May 15~~~~June 1~~. This notification shall be notarized and shall include the candidate's name, address, *unique personal*

- identification*~~{Social Security}~~ number, job classification, and length of state employment. It shall also include the name and address of his current employer.
- (2) On the last working day of ~~April~~~~{May}~~, the cabinet shall certify a payroll listing to the board that is current on such day and that contains the name, *unique personal identification*~~{Social Security}~~ number, and home address of every classified employee.
- (3) At least *ten (10)*~~{fifteen (15)}~~ working days prior to the election provided for in subsection (1) of this section, the board shall mail to each classified employee whose name appeared on the payroll listing certified by the cabinet at his home address:
- A list of candidates for election to the board~~{, in alphabetical order, with a brief biography following the name of each candidate}~~;
  - Instructions for voting;
  - A ballot listing the names of all candidates for election to the board~~{ in alphabetical order and providing a blank space next to each name}~~; and
  - An envelope*~~{Two (2) envelopes}~~ for returning the ballot *should the classified employee wish to return the ballot by first-class mail*.~~{Prior to mailing the envelopes to a state employee, one (1) envelope shall be addressed by the board to the impartial third party selected by the board to receive, validate, and tabulate the ballots at a post office box rented by the board for the election. The upper left corner of the preaddressed or outer envelope shall contain a sufficient number of blank lines and spaces to permit an employee to print his name and address. The upper left corner of the second or inner envelope shall contain a sufficient number of blank lines and spaces to permit an employee to print his name, address, Social Security number, the date, and to affix his signature.}~~
- (4) Upon receipt of his ballot, a classified employee wishing to participate in the election provided for in subsection (1) of this section shall:
- Vote for no more than two (2) candidates *on the ballot, following the instructions for voting*;
  - Print his or her unique personal identification number on the ballot in the space provided on the ballot*~~{Mark his ballot by placing a mark in the blank space next to the name of the candidate for whom he is casting his vote}~~; and
  - Deliver the ballot to the board by any means, including first-class mail, facsimile, scanned e-mail, or hand delivery. Ballots shall arrive at the board's principal address no later than the date of the election or be postmarked on or before the date of the election*~~{Print his name and address in the upper left corner of the preaddressed or outer envelope provided by the board}~~;
  - ~~Print his name, address, Social Security number, the date, and affix his signature in the upper left corner of the second or inner envelope provided by the board;~~
  - ~~Seal his ballot in the second or inner envelope; and~~
  - ~~Seal the second or inner envelope in the preaddressed or outer envelope, affix a stamp to it, and post it}.~~
- (5) The board shall:
- Select an impartial third party to receive, validate, and tabulate all returned ballots as provided by this subsection and subsection (6) of this section; *and*
  - ~~{Acquire a post office box to which all ballots shall be mailed; and~~
  - ~~{Provide the impartial third party with a computer-generated list of the *unique personal identification*~~{names and Social Security}~~ numbers of eligible voters *in numerical order*~~{, with the names of the eligible voters in numerical sequence as determined by their Social Security numbers. The names and Social Security numbers listed on the list shall correspond to those appearing on the payroll certified by the cabinet under subsection (2) of this section}~~.~~
- (6) The impartial third party selected by the board shall collect all ballots~~{, unopened,}~~ from the *board and*~~{post office box. It shall}~~:
- ~~{Examine the postmark on each envelope;~~

- (b) Set aside, *untabulated*~~{unopened}~~, any ~~{preaddressed or outer}~~ envelope postmarked with, *or ballot stamped as received at the board on*, a date subsequent to the deadline provided for by this section;
- ~~{(c) Remove the second or inner envelope from the preaddressed or outer envelope;}~~
- (b)~~{(d)}~~ Verify the *unique personal identification*~~{name and Social Security}~~ number on the *ballot*~~{second or inner envelope}~~ by comparing *the number*~~{them}~~ to the computer-generated list of *unique personal identification*~~{names and Social Security}~~ numbers of eligible voters provided by the cabinet;
- (c)~~{(e)}~~ Set aside, *untabulated*~~{unopened}~~, any *ballot*~~{second or inner envelope}~~ containing a *unique personal identification*~~{name and Social Security}~~ number that does not match the *unique personal identification*~~{name and Social Security}~~ number appearing next to the name on the computer-generated list;
- (d)~~{(f)}~~ Tabulate the *timely* ballots~~{by electronic data entry in duplicate, provided that ballots in envelopes specified in paragraphs (b) and (c) of this subsection shall not be counted}~~;
- (e)~~{(g)}~~ Compare the total tabulated vote with the total number of eligible employees appearing on the computer generated list provided by the cabinet;
- (f)~~{(h)}~~ Return the ballots; envelopes, including envelopes that have not been opened; and other election material to the board; and
- (g)~~{(i)}~~ Certify to the board:
1. That the tabulation does not include two (2) or more ballots with the same *unique personal identification*~~{Social Security}~~ number;
  2. The total number of ballots received;
  3. The total number of ballots not included in the tabulation, and the reason each such ballot was not included in the tabulation;
  4. The total number of ballots included in the tabulation; and
  5. The total vote for each candidate.
- (7) For at least sixty (60) days after the completion of the tabulation provided for by subsection (6) of this section, the ballots, envelopes, and other election materials provided for by this section shall be public record and open to inspection, but the home addresses and *unique personal identification*~~{Social Security}~~ numbers of the eligible employees and voters shall be redacted prior to public inspection or disclosure.
- (8) The two (2) candidates receiving the greatest number of votes shall be declared the successful candidates. In the event of a tie vote, the tie shall be broken by a coin toss in the presence of the candidates receiving the tie vote.
- (9) Successful candidates shall be notified by the board no later than *ten (10)*~~{five (5)}~~ working days after the election. Successful candidates shall take office immediately upon notification.
- (10) State employees *may*~~{shall not}~~ use state materials or equipment, *except for state-paid first-class postage, to vote in*~~{for any purpose related to}~~ the election of classified employees to the board. *Except for voting in accordance with this section,*~~{nor shall}~~ any activity related to the election of a classified employee to the board *shall not* be conducted during working hours.

➔Section 7. KRS 18A.075 is amended to read as follows:

Subject to the provisions of this chapter and KRS Chapter 13A, it shall be the duty of the board to:

- (1) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants for the purpose of carrying out the provisions of this chapter;
- (2) Make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 18A.005 to 18A.200, and to require observance of its provisions and the

administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A; and to make such investigation as may be requested by the General Assembly or the Governor and to report thereon;

- (3) Hear appeals from applicants for positions for which examinations are being or have been conducted, from eligibles on examination registers, from unclassified employees who have been dismissed, demoted, suspended, or ***reduced in pay or grade***~~[otherwise penalized]~~ for cause, and from officers or employees serving under the personnel systems created by this chapter, as provided by 1986 Acts Ch. 494;
- (4) In cooperation with the secretary, promote public understanding of merit principles in government service;
- (5) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel board;
- (6) Make annual reports to the Governor, the Legislative Research Commission,~~and~~ the secretary ***of the Personnel Cabinet, and the co-chairs of the Interim Joint Committee on State Government prior to October 1. The board shall make***~~[and]~~ biennial reports to the General Assembly, which reports shall be a public record freely available to those persons interested in obtaining a copy. ***The board may request state agencies to provide information to assist the board in compiling the reports, which shall include the following:***
  - (a) ***The number of merit state employees at the beginning and the end of the reporting period;***
  - (b) ***The total number of grievances filed and mediation requests made by merit employees during the reporting period;***
  - (c) ***A tabulation of the stages in which employee complaints were resolved during the reporting period; and***
  - (d) ***The average amount of time taken to resolve employee complaints during the reporting period, by stage;***
- (7) Advise the Governor and the secretary with respect to the administration of the personnel system created by this chapter;
- (8) Consider and act on such matters as may be referred to the board by the secretary;~~and~~
- (9) Represent the public interest in the improvement of personnel administration in the state service, and advise and assist the secretary in fostering the interest of institutions of learning and of civic, professional, and employee organizations in the improvement of personnel standards in the state service; ***and***
- (10) ***Make a determination, upon receiving notification of proposed classification selection method changes with proper documentation for the necessity for the change from the secretary, on classification selection method changes prior to those changes occurring. Upon receiving a classification selection method change proposal from the secretary, the board shall, at its next regularly scheduled monthly meeting, review and comment on proposed selection method changes. No classification shall have its selection method changed without review and comment from the board.***

➔Section 8. KRS 18A.095 is amended to read as follows:

- (1) A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.
- (2) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:
  - (a) The specific reasons for dismissal including:
    1. The statutory or regulatory violation;
    2. The specific action or activity on which the intent to dismiss is based;
    3. The date, time, and place of such action or activity; and
    4. The name of the parties involved;~~and~~
  - (b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee; ***and***
  - (c) ***Whether the employee is placed on administrative leave by the appointing authority with pay upon receiving the intent to dismiss letter prior to the agency's final action.***

- (3) The Personnel Cabinet shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or agency or his designee, to each appointing authority. The form shall be attached to every notice of intent to dismiss and shall contain written instructions explaining:
- (a) The right granted an employee under the provisions of this section relating to pretermination hearings; and
  - (b) The time limits and procedures to be followed by all parties in pretermination hearings.
- (4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.
- (5) Unless waived by the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the head of the cabinet or agency or his designee, excluding the day his request is received.
- (6) No later than five (5) working days after the employee appears before the head of the cabinet or agency or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:
- (a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and
  - (b) Notify the employee in writing of the decision.
- (7) If the cabinet or agency head or his designee determines that the employee shall be dismissed or otherwise penalized, the employee shall be notified in writing of:
- (a) The effective date of his dismissal or other penalization;
  - (b) The specific reason for this action, including:
    1. The statutory or regulatory violation;
    2. The specific action or activity on which the dismissal or other penalization is based;
    3. The date, time, and place of the action or activity; and
    4. The name of the parties involved; and
  - (c) That he may appeal the dismissal or other penalization to the board within sixty (60) days after receipt of this notification, excluding the day he receives notice.
- (8) A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:
- (a) The demotion, suspension, or other penalization;
  - (b) The effective date of the demotion, suspension, or other penalization;
  - (c) The specific reason for the action including:
    1. The statutory or regulatory violation;
    2. The specific action or activity on which the demotion, suspension, or other penalization is based;
    3. The date, time, and place of the action or activity; and
    4. The name of the parties involved; and
  - (d) That he *or she* has the right to appeal to the board within sixty (60) days, excluding the day that he *or she* received notification *of the personnel action*.
- (9) Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after the dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.
- (10) (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:
1. The reallocation; and

2. His right to request reconsideration by the secretary within ten (10) working days of receipt of the notice, excluding the day he receives notification.
  - (b) He shall be provided with a form prescribed by the secretary on which to request reconsideration.
  - (c) The employee shall file a written request for reconsideration of the reallocation of his position with the secretary in a manner and form prescribed by the secretary and shall be given a reasonable opportunity to be heard thereon by the secretary. The secretary shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the secretary, the employee may appeal to the board.
- (11) Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant, or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.
- (12) Any classified employee may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age forty (40) and above. Nothing in this section shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.
- (13) When an eligible's name is removed from a register, the secretary shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the secretary or in accordance with the decision of the board.
- (14)
  - (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board.
  - (b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board.
  - (c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly.
  - (d) An appeal to the board by applicants or eligibles under subsections ~~(11)(10)~~ and ~~(13)(12)~~ of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.
- (15) An evaluation may be appealed to the board if an employee has complied with the review procedure established in KRS 18A.110(7)(j).
- (16)
  - (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The Personnel Cabinet shall be responsible for the distribution of these forms.
  - (b) The appeal form shall be attached to any notice, or copy of any notice, of dismissal, demotion, suspension, fine, involuntary transfer, or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney.
  - (c) The form shall also instruct a classified employee to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal.

- (d) Upon receipt of the appeal by the board, the appointing authority and the Personnel Cabinet shall be notified and the board shall schedule a hearing.
- (17) All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.
- (18) (a) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100.
- (b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.
- (19) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:
- (a) Employ class action procedures; or
  - (b) Conduct test representative cases.
- (20) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.
- (21) An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS 13B.030.
- (22) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal.
- (b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal.
- (c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action.
- (d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.
- (23) If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.
- (24) When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.
- (25) After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

- (26) If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.
- (27) *After a final decision in a contested case has been rendered by the last administrative or judicial body to which the case has been appealed, the board shall make the decision available to the public in electronic format on its Web site and shall organize the decisions according to the statutory basis for which the appeal was based.*
- (28) For the purposes of subsections (2), (3), (4), (5), (6), and (7) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.
- ~~(29)~~ (28) Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization.

➔Section 9. 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 *and this section*, 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. The employee may 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.
- (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. He shall be an employee with status and shall have all rights and privileges granted employees with status under the provisions of this chapter.
- (7) *A former unclassified employee under KRS 18A.115(1)(d), (e), (f), (g), (h), or (i) shall serve an initial probationary period of twelve (12) months if the employee is appointed to a position in the classified service, unless that employee had previously had status in the classified service or had been separated from his or her previous unclassified position for at least one hundred eighty (180) days prior to the effective date of his or her appointment to the classified service.*
- (8) *Notification to an employee on initial or promotional probation of the reason the probationary employment has been terminated by the appointing authority shall not confer a right to appeal to the board.*

➔Section 10. KRS 18A.115 is amended to read as follows:

- (1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:
- (a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;
- (b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

- (c) Members of boards and commissions;
- (d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the Secretary of the Governor's Cabinet, and the Office of Program Administration;
- (e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television and the executive director and deputy executive director of the Education Professional Standards Board;
- (f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;
- (g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;
- (h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the ~~secretary~~~~commissioner~~ approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the *secretary*.  
***Effective August 1, 2010:***
  1. *All positions approved under this paragraph prior to August 1, 2010, shall be abolished effective December 31, 2010, unless reapproved under subparagraph 2. of this paragraph; and*
  2. *A position approved under this paragraph on or after August 1, 2010, shall be approved for a period of five (5) years, after which time the position shall be abolished unless reapproved under this subparagraph for an additional five (5) year period*~~commissioner~~;
- (i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;
- (j) Physicians employed as such;
- (k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;
- (l) The judicial department, referees, receivers, jurors, and notaries public;
- (m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;
- (n) Patients or inmates employed in state institutions;
- (o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;
- (p) Interim employees;
- (q) Officers and members of the state militia;
- (r) Department of Kentucky State Police troopers;
- (s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

- (t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);
  - (u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;
  - (v) County and Commonwealth's attorneys and their respective appointees;
  - (w) Chief district engineers and the state highway engineer;
  - (x) Veterinarians employed as such by the Kentucky Horse Racing Authority;
  - (y) Employees of the Kentucky Peace Corps;
  - (z) Employees of the Council on Postsecondary Education;
  - (aa) Executive director of the Commonwealth Office of Technology;
  - (ab) Employees of the Kentucky Commission on Community Volunteerism and Service;
  - (ac) Persons employed in certified teaching positions at the Kentucky School for the Blind and the Kentucky School for the Deaf; and
  - (ad) Federally funded time-limited employees as defined in KRS 18A.005.
- (2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.
- (3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.
- (4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.
- (5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.
- (6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.
- (7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.
- (8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated

annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.

➔Section 11. KRS 18A.140 is amended to read as follows:

- (1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified services because of his political or religious opinions, ~~for~~ affiliations, ~~for~~ ethnic origin, ~~for~~ sex, *race* or disability. No person over the age of forty (40) shall be discriminated against because of age.
- (2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.
- (3) No employee in the classified service or member of the board or its executive director or secretary shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employee in the classified service.
- (4) No employee in the classified service or member of the board or its executive director shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid *partisan* public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employees of the classified service may be candidates for and occupy *an elected office if a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and* the election is on a nonpartisan basis, *the officers or employees have complied with the requirements of KRS 61.080, and the duties of the elective office do not interfere with, or create any conflicts of interest with, the state duties of the officers or employees in the classified service. An employee shall give notice to his or her appointing authority of his or her intent to run for elective office upon filing to run for the office.*

➔Section 12. KRS 18A.195 is amended to read as follows:

- (1) A state employee who is authorized to work one (1) or more hours in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis. Upon the written request of an employee who is not exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. sec. 201 et seq., an appointing authority may grant compensatory time, in lieu of overtime pay, at the rate of one and one-half (1.5) hours for each hour the employee is authorized to work in excess of forty (40) hours in a work week. An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.
- (2) *An employee in a position listed in KRS 18A.115(1)(d), (e), (f), (g), (h), (i), or (k) shall not be eligible to receive any level of block payment for compensatory leave hours, except as provided in subsection (3) of this section.*
- (3) Any employee who leaves state service shall be paid for the balance of unused compensatory time *not to exceed two hundred forty (240) hours.*

➔Section 13. KRS 61.373 is amended to read as follows:

- (1) Any public employee who leaves a position after June 16, 1966, voluntarily or involuntarily, in order to perform military duty, and who is relieved or discharged from such duty under conditions other than dishonorable, and who has not been absent from public employment due to military duty in time of war or national or state emergency for a period of time longer than the duration of the war or national or state emergency plus six (6) months or in time of peace for a period of time not longer than six (6) years, and makes application for reemployment within ninety (90) days after he is relieved from military duty or from hospitalization or treatment continuing after discharge for a period of not more than one (1) year:
  - (a) If still physically qualified to perform the duties of his position, shall be restored to such position if it exists and is not held by a person with greater seniority, otherwise to a position of like seniority, status and pay;

- (b) If not qualified to perform the duties of his position by reason of disability sustained during such service, the public employee shall be placed in another position, the duties of which he is qualified to perform and which will provide him like seniority, status and pay, or the nearest approximation thereof consistent with the circumstances of his case.
- (2) (a) *Officers and employees of this state, or any department or agency thereof, shall be granted a leave of absence by their employers for the period required to perform active duty or training in the National Guard or any reserve component of the Armed Forces of the United States.*
- (b) *Upon the officer's or employee's release from a period of active duty or training, except as provided in KRS 61.394, he or she shall be permitted to return to his or her former position of employment or a position with equivalent seniority, status, pay, and any other rights or benefits that would have been bestowed if he or she had not been absent.*
- (c) *An officer or employee who is not permitted to return to his or her former position may appeal the dismissal in accordance with KRS Chapter 18A.*
- (3) In the case of any person who is entitled to be restored to a position in accordance with KRS 61.371 to 61.379, if the personnel board finds that the department or agency with which such person was employed immediately prior to his military duty:
- (a) Is no longer in existence and its functions have not been transferred to any other agency; or
- (b) For any reason it is not feasible for such person to be restored to employment by the department or agency, the board shall determine whether or not there is a position in any other department or agency of the same public employer for which the person is qualified and which is either vacant or held by a person having a temporary appointment thereto. In any case in which the board determines that there is such a position, the person shall be restored to the position by the department or agency in which the position exists.

➔Section 14. Whereas KRS 18A.0551, as amended by this Act, will require the Personnel Board to hold elections every four years on or before June 15 and provide written notification to classified employees of the election before April 1, and whereas 2010 is a Personnel Board election year and the procedures described in this Act will need to be in effect before April 1, 2010, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by the Governor April 13, 2010.**