

CHAPTER 35

(SB 153)

AN ACT relating to state government.

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 *or she* 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 *or her* 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" ~~means~~~~[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 *under this chapter*, the unclassified service *in the executive branch of state government*, or a combination thereof. *At least five (5) years of the combined service shall have been in the classified service under this chapter*;
- (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 *under this chapter* whose appointment and ~~continued~~ employment are subject to the classified service provisions of this chapter *and the administrative regulations promulgated under 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 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 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 *or she* 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 *or her* 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 *or her* 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 demotion, dismissal, suspension, fines, and other disciplinary actions; 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 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;
- ~~(25)~~~~(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;
- ~~(26)~~~~(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 *or she* has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his *or her* promotional probation shall be extended for the same length of time as the granted leave to cover such absence;
- ~~(27)~~~~(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;
- ~~(28)~~~~(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;

- (29)~~(30)~~ "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;
- (30)~~(31)~~ "Reemployment" shall mean the rehiring of an employee with status who has been laid-off;
- (31)~~(32)~~ "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of ~~layoff~~ *lay-off*. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;
- (32)~~(33)~~ "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;
- (33)~~(34)~~ "Reinstatement" means 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;
- (34)~~(35)~~ "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);
- (35)~~(36)~~ "Seniority" means the total number of months of state service;
- (36)~~(37)~~ "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
- (37)~~(38)~~ "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 *or she* 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 *or her* 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 *or her* 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;
 - (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;
 - (n) ***Perform a classification and compensation study at least once every five (5) years;*** and
 - (o)~~(n)~~ Discharge the other duties imposed upon him ***or her*** 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 KRS 18A.115(1) (e), (g), (h), (i), (k), (t), (w), (aa), and (ab). 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.
 - (8) The secretary shall perform organizational analysis and review.

➔Section 3. KRS 18A.032 is amended to read as follows:

- (1) Except as provided by the provisions of this chapter, the secretary may refuse to examine an applicant; or, after examination, may disqualify an applicant, remove his *or her* name from a register, refuse to certify any eligible on a register, or may consult with the appointing authority in taking steps to remove ~~the~~^{such} person already appointed if:
 - (a) It is found that he *or she* does not meet any one (1) of the preliminary requirements established for the examination for the class of position;
 - (b) He *or she* is unable to perform the duties of the class;
 - (c) He *or she* has made a false statement of material fact in his *or her* application;
 - (d) He *or she* has used or attempted to use political pressure or bribery to secure an advantage in the examination;
 - (e) He *or she* has directly or indirectly obtained information regarding the examination to which, as an applicant, he *or she* was not entitled;
 - (f) He *or she* has failed to submit his *or her* application correctly or within the prescribed time limits;
 - (g) He *or she* has taken part in the compilation, administration, or correction of the examination for which he *or she* is an applicant;
 - (h) He *or she* has previously been dismissed from a position in the state service for cause or has resigned while charges for dismissal for cause of which he *or she* had knowledge were pending;
 - (i) He *or she* has been convicted of a felony within the preceding five (5) years and his *or her* civil rights have not been restored or he *or she* has not been pardoned by the Governor;
 - (j) He *or she* has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification; or
 - (k) He *or she* has otherwise willfully violated the provisions of this chapter.
- (2) An eligible may be removed from a register:
 - (a) If the eligible cannot be located by postal authorities at the last address provided by the eligible;
 - (b) If the eligible responds in writing that he *or she* no longer desires consideration for position in that class;
 - (c) If the eligible declines an offer of probationary appointment to the class for which the register was established;
 - (d) If it is shown that the eligible is not qualified or is unsuitable for appointment to the class for which the register is established;
 - (e) If the eligible fails to reply within a period of ten (10) calendar days of the receipt of the written request of the appointing authority for an interview, or fails to appear for an interview which he *or she* has scheduled with the appointing authority without good cause;
 - (f) If the eligible accepts an appointment and fails to present himself *or herself* for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority;~~or~~
 - (g) If the eligible states in writing that he *or she* is not available for appointment or does not wish to be considered for appointment; *or*
 - (h) If the eligible demonstrates erratic, unsafe, or threatening behavior.***
- (3) When an eligible notifies the cabinet in writing that he *or she* is unavailable for employment or employment consideration, the cabinet may remove the name of that eligible from the appropriate register without further notification to the person.
- (4) When the cabinet is notified in writing by an appointing authority that an eligible has accepted a bona fide offer of probationary appointment to any position, effective on a specified date, his *or her* name may be removed from the register for all classes for which the maximum salary is the same or less than that of the class to which he *or she* has been appointed.

➔ Section 4. 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. The **Personnel Cabinet**~~{board}~~ shall provide written **or electronic** notification of the date of the election to all classified employees on or before April 1; and
 - (b) Upon receipt of the notification provided for by paragraph (a) of this subsection, **a classified**~~{an}~~ employee wishing to serve on the board shall notify the board, in writing **or electronically**, no later than May 15. This notification~~{shall be notarized and}~~ shall include the candidate's name, address, unique personal identification number, job classification,~~{and}~~ length of state employment, **and**~~{. It shall also include the}~~ name~~{ and address}~~ of his **or her** current employer.
- (2) ~~{On the last working day of April,}~~ The cabinet shall **determine which employees are eligible to vote in the Personnel Board election as of the last calendar day in April**~~{certify a payroll listing to the board that is current on such day and that contains the name, unique personal identification number, and home address of every classified employee}~~.
- (3) At least ten (10) working days prior to the election provided for in subsection (1) of this section, the **cabinet**~~{board}~~ shall **notify**~~{mail to}~~ each classified employee **identified in subsection (2) of this section of the upcoming election and include in the notification a ballot and instructions for voting**~~{whose name appeared on the payroll listing certified by the cabinet at his home address}~~:
 - (a) ~~— A list of candidates for election to the board;~~
 - (b) ~~— Instructions for voting;~~
 - (c) ~~— A ballot listing the names of all candidates for election to the board; and~~
 - (d) ~~— An envelope for returning the ballot should the classified employee wish to return the ballot by first class mail.~~
- (4) Upon receipt of **the**~~{his}~~ ballot, a classified employee wishing to participate in the election provided for in subsection (1) of this section shall:
 - (a) Vote for no more than two (2) candidates on the ballot, following the **cabinet's** instructions for voting; **and**
 - (b) **Submit**~~{Print his or her unique personal identification number on the ballot in the space provided on the ballot; and}~~
 - (c) ~~— Deliver}~~ the ballot~~{ to the board}~~ by **the**~~{any}~~ means **and**~~{, 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 **specified by the cabinet**~~{of the election}~~.
- (5) The **cabinet**~~{board}~~ shall:
 - (a) ~~{Select an impartial third party to}~~ Receive, validate, and tabulate all returned **votes**~~{ballots as provided by this subsection and subsection (6) of this section}~~; and
 - (b) **Transmit the results to the board**~~{Provide the impartial third party with a computer generated list of the unique personal identification numbers of eligible voters in numerical order}~~.
- (6) ~~{The impartial third party selected by the board shall collect all ballots from the board and:~~
 - (a) ~~— Set aside, untabulated, any envelope postmarked with, or ballot stamped as received at the board on, a date subsequent to the deadline provided for by this section;~~
 - (b) ~~— Verify the unique personal identification number on the ballot by comparing the number to the computer-generated list of unique personal identification numbers of eligible voters provided by the cabinet;~~
 - (c) ~~— Set aside, untabulated, any ballot containing a unique personal identification number that does not match the unique personal identification number appearing next to the name on the computer generated list;~~
 - (d) ~~— Tabulate the timely ballots;~~
 - (e) ~~— Compare the total tabulated vote with the total number of eligible employees appearing on the computer generated list provided by the cabinet;~~
 - (f) ~~— Return the ballots; envelopes, including envelopes that have not been opened; and other election material to the board; and~~

~~(g)~~ Certify to the board:

- ~~1.~~ That the tabulation does not include two (2) or more ballots with the same unique personal identification 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 ~~(5)~~~~(6)~~ of this section, the ~~ballots, envelopes, and other~~ election materials ~~provided for by this section~~ shall be public record and open to inspection, **however any personally identifiable information, including** ~~but the~~ home addresses and unique personal identification numbers of the eligible employees and voters, shall be redacted prior to public inspection or disclosure.

~~(7)~~~~(8)~~ The two (2) **eligible** 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.

~~(8)~~~~(9)~~ Successful candidates shall be notified by the board no later than ten (10) working days after the election. Successful candidates shall take office immediately upon notification.

~~(9)~~~~(10)~~ State employees may use state materials or equipment, except for state-paid first-class postage, to vote in the election of classified employees to the board. Except for voting in accordance with this section, any activity related to the election of a classified employee to the board shall not be conducted during working hours.

(10) The secretary may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section.

➔Section 5. KRS 18A.095 is amended to read as follows:

- (1) A classified employee with status shall not be dismissed, demoted, suspended **without pay**, or **involuntarily transferred**~~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 **or her**. The notice shall also state:
 - (a) The specific reasons for dismissal including:
 1. The statutory,~~or~~ regulatory, **or policy** 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 **names**~~name~~ of the parties involved;
 - (b) That the employee has the right to appear personally, or with counsel if he **or she** has retained counsel, to reply to the **appointing authority**~~head of the cabinet or agency~~ or his **or her** 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 **pretermination** 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 **or his or her designee**. 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 *or she* receives the notice, the employee may request to appear, personally or with counsel if he *or she* has retained counsel, to reply to the **appointing authority**~~head of the cabinet or agency~~ or his *or her* designee.
- (5) Unless **agreed to by the appointing authority or his or her designee and**~~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 **appointing authority**~~head of the cabinet or agency~~ or his *or her* designee, excluding the day his *or her* request is received.
- (6) No later than five (5) working days after the employee appears before the **appointing authority**~~head of the cabinet or agency~~ or his *or her* designee, excluding the day of the appearance, the cabinet head or agency or his *or her* 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 **appointing authority**~~cabinet or agency head~~ or his *or her* 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 *or her* dismissal~~or other penalization~~;
 - (b) The specific reason for **the dismissal**~~this action~~, including:
 1. The statutory,~~or~~ regulatory, **or policy** 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 **names**~~name~~ of the parties involved; and
 - (c) That he *or she* may appeal the dismissal~~or other penalization~~ to the board within **thirty (30) calendar**~~sixty (60)~~ days after receipt of this notification, excluding the day he *or she* receives notice.
- (8) A classified employee with status who is demoted, suspended **without pay**, or **involuntarily transferred**~~otherwise penalized~~ shall be notified in writing of:
- (a) The demotion, suspension, or **involuntary transfer**~~other penalization~~;
 - (b) The effective date of the demotion, suspension, or **involuntary transfer**~~other penalization~~;
 - (c) The specific reason for the **demotion, suspension, or involuntary transfer**~~action~~ including:
 1. The statutory,~~or~~ regulatory, **or policy** violation;
 2. The specific action or activity on which the demotion, suspension, or **involuntary transfer**~~other penalization~~ is based;
 3. The date~~, time,~~ and place of the action or activity; and
 4. The **names**~~name~~ of the parties involved; and
 - (d) That he or she has the right to appeal to the board within **thirty (30) calendar**~~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 **without pay**, or **involuntarily transferred**~~otherwise penalized~~ for cause may, within thirty (30) **calendar** days after the dismissal, demotion, suspension, or **involuntary transfer**~~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 **or reclassification**; and
 2. **If the reallocation or reclassification is to a lower grade**, his *or her* right to request reconsideration by the secretary within ten (10) working days of receipt of the notice, excluding the day he *or she* 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 **or reclassification to a lower grade**~~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) *calendar* days after the request has been filed by an employee. *The secretary's determination shall be final and shall not be appealable to the Personnel Board*~~[After reconsideration of the request by the secretary, the employee may appeal to the board].~~

- (11) (a) ~~[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 *applicant*, classified employee, or *federally funded time-limited employee* may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, ~~for~~ age forty (40) and above, or any other category protected under state or federal civil rights laws. Nothing in this section shall be construed to preclude any *applicant*, classified *employee*, 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.
- (b) *Appeals alleging discrimination shall be filed within thirty (30) calendar days after the alleged discriminatory action occurred.*
- (12) (a) *Any applicant for classified employment under KRS Chapter 18A who has been notified by the Personnel Cabinet that he or she did not meet the minimum qualifications for a position may request reconsideration from the secretary not more than ten (10) calendar days after the notification was sent. The secretary's review and determination of the reconsideration shall be completed within ten (10) calendar days from the receipt of the request for reconsideration. The secretary's determination shall be final and shall not be appealable to the Personnel Board.*
- (b) *Any applicant for employment in a classified position under KRS Chapter 18A may appeal the hiring agency's nonselection based on an alleged violation of appointment and promotion provisions contained in this chapter or administrative regulations promulgated under this chapter to the board. The appeal shall be filed not later than thirty (30) calendar days after the notice of nonselection was mailed or sent electronically.*
- (13) When an employee who qualifies for a position has his or her name removed from the register, the employee may petition the secretary for the opportunity to be heard by the secretary or his or her designee. *The petition shall be delivered to the secretary in writing or electronically no later than ten (10) calendar days after the removal notification has been sent. The secretary's decision shall be final and not appealable to the Personnel Board*~~[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) and (13) 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).~~
- ~~(14)~~~~(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 **Board**~~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, ~~or 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 *or she* is a classified or unclassified employee, his *or her* full name, his *or her* appointing authority, work station address and telephone number, **home address and personal telephone number, personal email address**, and, if he *or she* has retained counsel at the time he *or she* files an appeal, the name, address, and telephone number of his *or her* attorney.
- (c) The form shall also instruct a classified employee to state the action he *or she* 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 *or her* dismissal, **demotion, suspension, or involuntary transfer.**
- (d) **Any appeal form filed by a classified or unclassified employee shall identify the statute, administrative regulation, or policy that was allegedly violated.**
- (e) 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.
- ~~(15)~~~~(17)~~ All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.
- ~~(16)~~~~(18)~~ (a) The board ~~shall~~~~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 *or she* has been dismissed, **demoted, suspended without pay, or involuntarily transferred.** The board ~~shall~~~~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 *or her* 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.
- ~~(17)~~~~(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.
- ~~(18)~~~~(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.
- ~~(19)~~~~(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.
- ~~(20)~~~~(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 *or her* 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 *or her* former position or a position of like status and pay, without loss of pay for the period of **time at issue**~~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 *or her* former position or a position of like status and

pay, without loss of pay for the period of *time at issue*~~[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 *at issue*.
 - (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.
- ~~(21)(23)~~ If a final order of the board is appealed, a court *may*~~[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.
- ~~(22)(24)~~ When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his *or her* name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he *or she* had been removed.
- ~~(23)(25)~~ After a final decision has been rendered by the board or court, an employee who prevails in his *or her* appeal *may*~~[shall]~~ be credited with the amount of leave time used for time spent at his *or her* 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.
- ~~(24)(26)~~ If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his *or her* 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.
- ~~(25)(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 *website*~~[Web site]~~ and shall organize the decisions according to the statutory basis for which the appeal was based.
- (26) *Appeals concerning dismissals of classified employees with status shall take precedence for hearings before the board over all other appeals.***
- (27) *Any classified or unclassified employee as defined in Section 1 of this Act who is not restored to a position pursuant to KRS 61.371 to 61.377, or who is dismissed without cause within one (1) year after reinstatement, may appeal to the Personnel Board. The appeal shall be filed in writing with the executive director of the board not later than thirty (30) days after the notification of the action in question has been mailed or sent electronically.***
- (28) *If an individual received a notice that does not comply with subsection (7)(c), (8)(d), or (14)(b) of this section, or received no written or electronic notification of his or her dismissal, demotion, suspension, or involuntary transfer pursuant to subsection (7) or (8) of this section, he or she shall file his or her appeal to the board within one hundred eighty (180) days of:***
- (a) *Receipt of the written notice, if he or she received a written notice that does not comply with subsection (7)(c), (8)(d), or (14)(b); or***
 - (b) *The alleged act, if he or she did not receive written or electronic notification of the alleged act in question.***
- (29) *If a classified or unclassified employee refuses or fails to cooperate as a witness in an agency, Personnel Cabinet, or board investigation, hearing, proceeding, or inquiry, the employee may be subject to disciplinary action.***
- (30) *Unless otherwise provided by this chapter, the board shall not have jurisdiction over any appeal except as authorized by this section***

~~[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) 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 6. KRS 18A.110 (Effective April 1, 2023) is amended to read as follows:

- (1) The secretary shall promulgate comprehensive administrative regulations for the classified service governing:
 - (a) Applications and examinations;
 - (b) Certification and selection of eligibles;
 - (c) Classification and compensation plans;
 - (d) Incentive programs;
 - (e) **Layoffs**~~{Lay-offs}~~;
 - (f) Registers;
 - (g) Types of appointments;
 - (h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, living organ donor, and special leaves of absence, provided that the secretary shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985; and
 - (i) Employee evaluations.
- (2) The secretary shall promulgate comprehensive administrative regulations for the unclassified service.
- (3)
 - (a) Except as provided by KRS 18A.355, the secretary shall not promulgate administrative regulations that would reduce an employee's salary; and
 - (b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.
- (4) The secretary may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.
- (5)
 - (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;
 - (b) Administrative regulations promulgated by the secretary 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 Cabinet shall promulgate administrative regulations governing the subject matters specified in this section.
- (6) Prior to filing an administrative regulation with the Legislative Research Commission, the secretary shall submit the administrative regulation to the board for review.
 - (a) The board shall review the administrative regulation proposed by the secretary not less than twenty (20) days after its submission to it;
 - (b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the secretary;
 - (c) The secretary shall review the recommendations of the board and may revise the proposed administrative regulation if he **or she** deems it necessary; and
 - (d) After the secretary has completed the review provided for in this section, he **or she** may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.
- (7) The administrative regulations shall provide:
 - (a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class. The secretary shall allocate the position of every employee in

the classified service to one (1) of the classes in the plan. The secretary shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

- (b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state budget director. The plan shall take into account such factors as:
1. The relative levels of duties and responsibilities of various classes of positions;
 2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and
 3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he *or she* is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

- (c) For *the advertisement and acceptance of* ~~open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly and~~ applications *for* ~~accepted~~ at least *five (5)* ~~ten (10)~~ days *for those positions to be filled by classified appointment or promotion* ~~prior to certification of a register, and may be advertised through the press, radio, and other media~~. The secretary *may* ~~shall~~ continue to receive applications and *review applicants* ~~examine candidates~~ on a continuous basis long enough to *ensure* ~~assure~~ a sufficient number of *applicants* ~~eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The secretary shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;~~
- ~~(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the secretary for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;~~
- ~~(d)~~~~(e)~~ For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the secretary in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;
- ~~(e)~~~~(f)~~ Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;
- ~~(f)~~~~(g)~~ For annual, sick, and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);
- ~~(g)~~~~(h)~~ For *layoffs* ~~lay-offs~~, in accordance with the provisions of *Section 7 of this Act* ~~KRS 18A.113, 18A.1131, and 18A.1132~~, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;
- ~~(h)~~~~(i)~~ For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility without written examination;
- ~~(i)~~~~(j)~~ For a uniform system of annual employee evaluation for classified employees, with status, that shall be considered in determining eligibility for discretionary salary advancements, promotions, and disciplinary actions. The administrative regulations shall:

1. Require the secretary to determine the appropriate number of job categories to be evaluated and a method for rating each category;
 2. Provide for periodic informal reviews during the evaluation period which shall be documented on the evaluation form and pertinent comments by either the employee or supervisor may be included;
 3. Establish a procedure for internal dispute resolution with respect to the final evaluation rating;
 4. Permit a classified employee, with status, who receives either of the two (2) lowest possible evaluation ratings to appeal to the Personnel Board for review after exhausting the internal dispute resolution procedure. The final evaluation shall not include supervisor comments on ratings other than the lowest two (2) ratings;
 5. Require that an employee who receives the highest possible rating shall receive the equivalent of two (2) workdays, not to exceed sixteen (16) hours, credited to his or her annual leave balance. An employee who receives the second highest possible rating shall receive the equivalent of one (1) workday, not to exceed eight (8) hours, credited to his or her annual leave balance; and
 6. Require that an employee who receives the lowest possible evaluation rating shall either be demoted to a position commensurate with the employee's skills and abilities or be terminated; and
- (j)(k) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.
- (8) For any individual hired or elected to office before January 1, 2015, and paid through the Kentucky Human Resources Information System, the Personnel Cabinet shall not require payroll payments to be made by direct deposit or require the individual to use a web-based program to access his or her salary statement.
- (9) To the extent that KRS 16.010 to 16.199, 16.080, and 16.584 and administrative regulations promulgated by the commissioner of the Department of Kentucky State Police under authority granted in KRS Chapter 16 conflict with this section or any administrative regulation promulgated by the secretary pursuant to authority granted in this section, the provisions of KRS Chapter 16 shall prevail.
- ➔SECTION 7. KRS 18A.113 IS REPEALED AND REENACTED TO READ AS FOLLOWS:
- (1) *As used in this section:*
- (a) *"Furlough" or "reduction in hours" means the temporary reduction of hours an employee is scheduled to work by the appointing authority within a pay period; and*
 - (b) *"Layoff" means discharge of employment subject to the rights contained in this section.*
- (2) *An appointing authority shall have the authority to layoff or furlough employees or reduce hours of employment for any of the following reasons:*
- (a) *Lack of funds or budgetary constraints;*
 - (b) *A reduction in spending authorization;*
 - (c) *Lack of work;*
 - (d) *Abolishment of a position;*
 - (e) *Efficiency; or*
 - (f) *Other material change in duties or organization.*
- (3) *The appointing authority shall determine the classifications affected, the number of employees laid-off in each classification, and each county to which a layoff applies. In the same department or office, county, and job classification, interim and probationary employees shall be laid-off before full-time or part-time employees with status. For purposes of layoff, "probationary employee" shall not include an employee with status serving a promotional probation.*
- (4) *The provisions of this section shall not apply to federally funded time-limited employees.*
- (5) *The secretary of the Personnel Cabinet shall approve all actions taken under subsection (2) of this section and no such layoff, furlough, or reduction of hours may begin until the approval has been granted. The*

appointing authority, with the approval of the secretary, shall have the authority to determine the extent, effective dates, and length of any action taken under subsection (2) of this section.

- (6) *In determining a layoff, the appointing authority shall consider all employees under the same appointing authority, within the classification affected, and within the county affected. Consideration shall be given to the following relevant factors and in this order:*
- (a) *Job performance evaluations;*
 - (b) *Education, training, and experience;*
 - (c) *Disciplinary record; and*
 - (d) *Seniority.*
- (7) *Any classified employee with status whose position is subject to layoff, furlough, or reduction of hours shall be provided written notice containing the reason for the action at least thirty (30) days in advance of the effective date of the action.*
- (8) (a) *Any classified employee with status who is laid off shall be eligible to apply as a reemployment applicant for the job classification from which he or she was laid-off, in the cabinet from which he or she was laid-off for a period of two (2) years. A reemployment applicant shall be hired before any applicant except another reemployment applicant with greater seniority who is on the same register.*
- (b) *A reemployment applicant shall not be removed from any register except as provided in Section 3 of this Act.*
- (c) *When a reemployment applicant is removed from a register, he or she shall be notified in writing or electronically and shall have the right to appeal to the board within thirty (30) calendar days after receipt of the notification, excluding the day he or she receives notice.*
- (d) *A reemployment applicant who accepts any classified position, or who retires through the Kentucky Employees Retirement System or Kentucky Teachers Retirement System, shall cease to have eligibility rights as a reemployment applicant.*
- (9) *With the approval of the secretary, the Personnel Cabinet may place employees subject to a reduction in workforce in a different position.*
- (10) *The secretary shall promulgate administrative regulations pursuant to KRS Chapter 13A to fully implement the provisions of this section.*
- (11) *A layoff, furlough, or reduction of hours implemented in accordance with this section shall not be appealable to the Personnel Board.*

➔Section 8. KRS 48.130 is amended to read as follows:

- (1) The General Assembly shall include in each enacted branch budget bill a budget reduction plan for a revenue shortfall in the general fund or road fund of five percent (5%) or less. The budget reduction plan shall direct how budget reductions shall be implemented if there is a revenue shortfall of five percent (5%) or less.
- (2) A ~~layoff~~ ~~lay-off~~ of state employees in the executive branch under the budget reduction plan enacted by the General Assembly shall comply with the provisions of *Section 7 of this Act* ~~[KRS 18A.1132]~~.
- (3) Any revenue shortfall in the general fund or road fund of greater than five percent (5%) shall require action by the General Assembly.
- (4) Upon the issuance of an official revenue estimate by the consensus forecasting group reflecting a revenue shortfall in the general fund or road fund, or upon the existence of an actual revenue shortfall in the general fund or road fund at the close of a fiscal year as determined by the Office of State Budget Director, the Office of State Budget Director shall notify all branches of government. If the revenue shortfall is five percent (5%) or less, the following actions shall be taken:
 - (a) The unappropriated balance of funds in the surplus accounts of the general fund or road fund shall first be used to meet the shortfalls in those respective funds; and
 - (b) If the amounts described in paragraph (a) of this subsection are insufficient to address the revenue shortfall, the enacted budget reduction plan included in each branch budget bill shall be implemented.

- (5) The budget reduction plan for each branch of government may provide that the annual increment granted state employees under KRS 18A.355 shall be reduced as provided by KRS 18A.355. Any reduction of the annual increment shall be uniform for all employees.
- (6) No budget reduction action shall be taken by any branch head in excess of the actual or projected deficit.
- (7) If general fund or road fund tax receipts increase over the revenues estimated in the official revenue estimate that resulted in reductions, then services may be restored in the reverse order of the reduced services.

➔Section 9. 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. The secretary 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 the secretary's 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, departments, and divisions, each of which shall be headed by either a commissioner, executive director, or division director appointed by the secretary, subject to the prior approval of the Governor pursuant to KRS 12.040 or 12.050, depending on the level of the appointment, 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, which shall be responsible for communication with state employees about personnel and other relevant issues and for the administration and coordination of the following:
 - 1. Office of Employee Relations, composed of the following programs:
 - a. Workers' Compensation Program pursuant to KRS 18A.375;
 - b. Sick leave Sharing Program, pursuant to KRS 18A.197;
 - c. Annual Leave Sharing Program, pursuant to KRS 18A.203;
 - d. Health and Safety Program;
 - e. Employee Assistance Program;
 - f. Employee Incentive Programs, pursuant to KRS 18A.202;
 - g. Employee Mediation Program; and
 - h. Living Organ Donor Leave Program, pursuant to KRS 18A.194;
 - 2. Office of Administrative Services, which shall be responsible for the Personnel Cabinet's administrative functions, composed of the following programs:
 - a. Division of Technology Services;
 - b. Division of Human Resources; and
 - c. Division of Financial Services;
 - 3. Office of Legal Services, which shall provide legal services to the Personnel Cabinet and to executive branch agencies and their representatives upon request;
 - 4. Office of Diversity, Equality, and Training, which shall coordinate and implement diversity initiatives for state agencies, the affirmative action plan established by KRS 18A.138, the state Equal Employment Opportunity Program, and the Minority Management Trainee Program;
 - 5. Governmental Services Center, which shall be responsible for employee and managerial training and organizational development;
 - 6. Kentucky Public Employees Deferred Compensation Authority, which shall maintain a deferred compensation plan for state employees; and

7. Office of Public Affairs, which shall assist in all aspects of developing and executing the strategic direction of the cabinet;
- (b) Department of Human Resources Administration, which shall be composed of the:
1. Division of Employee Management, which shall be responsible for payroll, records, classification, and compensation. The division shall also be responsible for implementing ~~layoff~~ ~~lay-off~~ plans mandated by *Section 7 of this Act* ~~[KRS 18A.113 to 18A.1132]~~ and shall monitor and assist state agencies in complying with the provisions of the federal Fair Labor Standards Act. The division shall:
 - a. Maintain the central personnel files mandated by KRS 18A.020 and process personnel documents and position actions;
 - b. Operate and maintain a uniform payroll system and certify payrolls as required by KRS 18A.125;
 - c. Maintain plans of classification and compensation for state service and review and evaluate the plans; and
 - d. Coordinate and implement the employee performance evaluation systems throughout state government; and
 2. Division of Career Opportunities, which shall be responsible for employment counseling, applicant processing, employment register, and staffing analysis functions. The division shall:
 - a. Operate a centralized applicant and employee counseling program;
 - b. Operate, coordinate, and construct the examination program for state employment;
 - c. Prepare registers of candidate employment; and
 - d. Coordinate outreach programs, such as recruitment and the Administrative Intern Program; and
- (c) Department of Employee Insurance, which shall be responsible for the:
1. Health Insurance Program, pursuant to KRS 18A.225;
 2. Flexible Benefit Plan, pursuant to KRS 18A.227;
 3. Division of Insurance Administration, which shall be responsible for enrollment and service functions;
 4. Division of Financial and Data Services, which shall be responsible for fiscal and data analysis functions; and
 5. Life Insurance Program pursuant to KRS 18A.205 to 18A.220.
- (4) The cabinet shall include principal assistants appointed by the secretary, pursuant to KRS 12.050 or 18A.115(1)(g) and (h), 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 10. 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 than twenty (20) days after its submission to him *or her*;
 - (b) Not more than five (5) days after his review, the secretary shall submit his *or her* 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 *or her* 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 **Section 7 of this Act**~~[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 11. KRS 18A.100 is amended to read as follows:

- (1) Any final order of the board either upholding or invalidating the dismissal, demotion, *or* suspension~~[, or other penalization]~~ of a classified or an unclassified employee may be appealed either by the employee or by the appointing authority.
- (2) The party aggrieved may appeal a final order by filing a petition with the clerk of the Franklin Circuit Court in accordance with KRS Chapter 13B.

➔Section 12. KRS 18A.355 is amended to read as follows:

- (1) An annual increment of not less than five percent (5%) of the base salary or wages of each state employee shall be granted to each employee on his *or her* anniversary date. The employee's base salary or wages shall be increased by the amount of the annual increment. When any increment due to a promotion, reallocation, reclassification or salary adjustment is granted an employee, the employee's base salary or wages shall be increased by the amount of such increment. An employee's base salary or wages shall not be increased by the amount of lump-sum payment awarded under **subsection (7)(i) of Section 6 of this Act**~~[KRS 18A.110(7)(j)]~~.
- (2) The branch budget recommendation submitted to the General Assembly under KRS Chapter 48 shall include a request for the amount of the annual increment expressed as a percentage of each employee's base salary or wages and a request for the total appropriation needed to fund the annual increment. The annual increment shall be uniform for all employees. The financial plan enacted under the provisions of KRS 48.300 shall contain the annual increment expressed as a percentage of each employee's base salary or wages, and the total appropriation needed to fund the annual increment.
- (3) The budget reduction plan submitted and enacted under the provisions of KRS Chapter 48 shall provide that a reduction of the annual increment granted under this section shall be made only after other cost savings measures, as provided by **Section 7 of this Act**~~[KRS 18A.1132]~~, are taken. Any such reduction shall be uniform for all state employees and shall comply with the provisions of this chapter and KRS Chapter 48.

➔Section 13. KRS 61.371 is amended to read as follows:

As used in KRS 61.371 to ~~61.377~~~~[61.379]~~, unless the context otherwise requires:

- (1) "Public employee" means a person appointed to a position in public service for which he *or she* is compensated on a full-time basis, excluding elected officers;
- (2) "Public service" means employment by the Commonwealth of Kentucky, or by any county, city, or political subdivision or by any department, board, agency, or commission thereof;
- (3) "Employer" means the officer, employee, board, commission or agency authorized by law to make appointments to a position in public service;
- (4) "Position" means an office or employment in the public service, excluding an office filled by popular election;
- (5) "Military duty" means training and service performed by an inductee, enlistee, or reservist or any entrant into a temporary component of the armed forces of the United States, and time spent in reporting for and returning from such training and service, or if a rejection occurs, from the place of reporting therefor. "Military duty" shall not include voluntary active duty for training of an individual as a reservist in the Armed Forces of the United States;
- (6) "Board" means the personnel board established by KRS Chapter 18A;

- (7) "Seniority" means the increase in compensation, status, and responsibility resulting from promotion or step progression within a class of a classified service or promotion or increase in compensation, status, and responsibility in the unclassified service.

➔Section 14. 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 *or she* 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 *or her* 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 *or her* position by reason of disability sustained during such service, the public employee shall be placed in another position, the duties of which he *or she* is qualified to perform and which will provide him *or her* like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances of his *or her* 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 ~~61.377~~~~61.379~~, if the personnel board finds that the department or agency with which such person was employed immediately prior to his *or her* 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 15. KRS 61.375 is amended to read as follows:

Any person who is restored to a position in accordance with KRS 61.371 to ~~61.377~~~~61.379~~ shall not be discharged from his *or her* position without cause within one (1) year after his *or her* restoration, and shall, without limiting other rights conferred by this or other sections, be considered as having been on furlough or leave of absence during his *or her* period of military duty. He *or she* shall be restored without loss of seniority, including, upon promotion or other advancement following completion of any period of employment required therefor, a seniority date in the advance position which will place him *or her* ahead of all persons previously junior to him *or her* who advanced to the position during his *or her* absence in the Armed Forces.

➔Section 16. The following KRS sections are repealed:

61.379 Rules and regulations -- Appeals from failure to restore or discharge -- Procedure.

18A.1131 Lay-off rules applicable to classified employees only.

18A.1132 Lay-off rules applicable to both classified and unclassified employees.

Signed by Governor March 20, 2023.

