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GENERAL CIRCULAR NUMBER 2020-041

DATE: June 11, 2020

TO: Heads of State Agencies and Human Resources Directors

SUBJECT: Proposed changes to Chapters 2, 21 and 27 of the Civil Service Rules

This general circular serves as notice of proposed rule changes to Chapters 2, 21, and 27 of the Civil Service Rules. The State Civil Service (SCS) Commission will hold a public hearing regarding these proposals at its regularly scheduled business meeting on Wednesday, July 8, 2020, at 9 a.m.

These proposals will be presented to the State Civil Service Commission at its regularly scheduled business meeting on Wednesday, July 8, 2020. The meeting will be held in the Louisiana Purchase Room of the Claiborne Building, 1201 North Third Street, Baton Rouge, at 9 a.m. Individuals who wish to comment should provide feedback prior to the meeting in writing to the Director of the Department of State Civil Service at Post Office Box 94111, Baton Rouge, Louisiana, 70804-9111. Comments may also be directed to the attention of the civilservicecommission@la.gov. If any accommodations are needed, please notify the Department at (225) 342-8272 prior to the meeting.

Summary of Proposal

Please refer to the charts that follow for comparison between the current and proposed rule language.

State Civil Service recommends amending Chapter 2 to propose rules for virtual meetings of the State Civil Service Commission during the declared emergencies, to change the language of “executive meetings” to “executive sessions,” and to provide clarity regarding public notices of meetings. Other minor changes are proposed.

CHAPTER 2: CIVIL SERVICE COMMISSION – POWERS, PUBLIC MEETINGS, PROCEDURES FOR ADOPTING AND AMENDING RULES, ETC.	
CURRENT	PROPOSED
<p>2.4 Meetings Open to the Public</p> <p>(a) All meetings and hearings of the Commission shall be open to the public except executive meetings.</p>	<p>2.4 Meetings Open to the Public</p> <p>(a) All meetings and hearings of the Commission shall be open to the public except executive meetings sessions.</p>

<p>(b) The Commission may hold an executive meeting upon an affirmative vote of two-thirds of its constituent members present, taken at an open meeting for which notice has been given pursuant to Rule 2.5. No final or binding action shall be taken during an executive meeting except as provided herein.</p> <p>(c) The Commission may hold an executive meeting for one or more of the following reasons:</p> <ol style="list-style-type: none"> 1. Discussion of the character, professional competence, or physical or mental health of a person, provided that such person may require that such discussion be held at an open meeting. 2. Strategy sessions or negotiations with respect to collective bargaining, prospective litigation after formal written demand, or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the Commission. 3. Discussion regarding the report, development, or course of action regarding security personnel, plans or devices. 4. Investigative proceedings regarding allegations of misconduct. 5. Cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances or other matters of similar magnitude. 6. Discussion of any matter deemed confidential by these Rules, or State or Federal Law or Regulation. 7. Consideration and discussion of the merits of any appeal filed pursuant to these Rules. Final and binding action may be taken during an executive meeting held to discuss and decide such an appeal. 	<p>(b) The Commission may hold an executive meeting <u>session</u> upon affirmative vote of two-thirds of its constituent members present; taken at an open meeting for which notice has been given pursuant to Rule 2.5. No final or binding action shall be taken during an executive meeting <u>session</u> except as provided herein.</p> <p>(c) The Commission may hold an executive meeting <u>session</u> for one or more of the following reasons:</p> <ol style="list-style-type: none"> 1. Discussion of the character, professional competence, or physical or mental health of a person, provided that such person may require that such discussion be held at an open meeting. 2. Strategy sessions or negotiations with respect to collective bargaining, prospective litigation after formal written demand, or litigation when an open meeting would have detrimental effect on the bargaining or litigating position of the Commission. 3. Discussion regarding the report, development, or course of action regarding security personnel, plans, or devices. 4. Investigative proceedings regarding allegations of misconduct. 5. Cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances or other matters of similar magnitude. 6. Discussion of any matter deemed confidential by these Rules, or <u>state or federal law</u> or regulation. 7. Consideration and discussion of the merits of any appeal <u>and applications for review</u> filed pursuant to these Rules. Final and binding action may be taken during an executive meeting <u>session</u> held to discuss and decide such an appeal <u>these matters</u>.
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<p>2.5 Notice of Meetings</p> <p>(a) The Commission shall give written public notice of any regular, special, or rescheduled meeting no later than 24 hours before that meeting. Such notice shall include the agenda, date, time, and place of the meeting, provided that upon the approval of two-thirds of the members present at a meeting of the Commission, the Commission may take up a matter not on the agenda. In cases of extraordinary emergency, such notice shall not be required; however, the Commission shall give such notice of the meeting as it deems appropriate and circumstances permit.</p> <p>(b) Written public notice shall include:</p> <ol style="list-style-type: none"> 1. Posting a copy of the notice at the office of the director no less than 24 hours before the meeting. 2. Mailing a copy of the notice to any member of the news media who requests notice of meetings of the Commission. 	<p>2.5 Notice of Meetings</p> <p>(a) The Commission shall give written public notice of any regular, special, emergency or rescheduled meeting no later than 24 hours before that meeting. Such notice shall include the agenda, date, time, and place of the meeting, provided that upon the approval of two-thirds of the members present at a meeting of the Commission, the Commission may take up a matter not on the agenda. In cases of extraordinary emergency, such notice shall not be required; however, the Commission shall give such notice of the meeting as it deems appropriate and circumstances permit.</p> <p>(b) Written public notice shall include:</p> <ol style="list-style-type: none"> 1. Posting a copy of the notice at the office of the director no less than 24 hours before the meeting. 2. Mailing a copy of the notice to any member of the news media who requests notice of meetings of the Commission. <p><u>(b) Written public notice shall include the agenda, date, time, and place of the meeting, provided that upon the approval of two-thirds of the members present at a meeting of the Commission, the Commission may take up a matter not on the agenda.</u></p> <p><u>(c) In cases of extraordinary emergency, such notices shall not be required; however, the Commission shall give such notice of the meeting as it deems appropriate and circumstances permit.</u></p> <p>(b) <u>(d) Written public notice shall include be given by:</u></p> <ol style="list-style-type: none"> 1. Posting a copy of the notice at the office of the director <u>in a publicly accessible area of the building where the meeting will take place</u> no less than 24 hours before the meeting;
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	<p>2. <u>Posting a copy of the notice on the Department of State Civil Service’s official website no less than 24 hours before the meeting; and</u></p> <p>2.3. Mailing <u>Emailing</u> a copy of the notice to any member of the news media who requests notice of meetings of the Commission no less than 24 hours before the meeting.</p>
<p>2.6 Quorum and Voting</p> <p>(a) Four (4) members of the Commission shall constitute a quorum for the transaction of business.</p> <p>(b) The concurrence of a majority of the members present shall constitute a ruling upon an item of business then before the Commission.</p> <p>(c) In the event of a tie vote the Commission may, in its discretion,</p> <ol style="list-style-type: none"> 1. Refer a transcript of the record of the matter under consideration to one or more absent members, who shall then vote; or 2. Continue the matter for consideration at a later meeting. <p>(d) Temporary absence during the consideration of an item of business shall not disqualify a member from voting on said item.</p>	<p>2.6 Quorum and Voting</p> <p>(a) Four (4) members of the Commission shall constitute a quorum for the transaction of business.</p> <p>(b) The concurrence of a majority of the members present shall constitute a ruling upon an item of business then before the Commission.</p> <p><u>(b) Emergency Meeting. During a declaration of emergency in the State of Louisiana, all members of the Commission may be present at the meeting virtually.</u></p> <p><u>(c) Regular, Special or Rescheduled Meetings. At all meetings except emergency meetings, a quorum must be physically present. Additional members beyond those necessary to comprise a quorum may be present physically or virtually.</u></p> <p><u>(d) Members participating in a meeting or executive session virtually may fully participate, as applicable, in all business, discussions and voting</u></p> <p><u>(e) Except for executive session, business of the Commission involving members participating virtually must be conducted in such a manner that all members and the public can hear.</u></p> <p>(b) (f) The concurrence of a majority of the members present shall constitute a ruling upon an item of business then before the Commission.</p>

	<p>(e) (g) In the event of a tie vote the Commission may, in its discretion:</p> <ol style="list-style-type: none"> 1. Refer a transcript of the record of the matter under consideration to one or more absent members, who shall then vote; or 2. Continue the matter for consideration at a later meeting. <p>(d) (h) Temporary absence or temporary disruption of electronic communications during the consideration of an item of business shall not disqualify a member from voting on said item.</p>
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The Department recommends amending Chapter 21 to propose rules that allow for overtime compensation to be paid at the time and one-half rate, when work is performed related to or responsive to a disaster, emergency or health pandemic declared by the governor.

CHAPTER 21: OVERTIME AND OVERTIME COMPENSATION	
CURRENT	PROPOSED
<p>21.8 Compensation Rate – Non-Exempt Employees</p> <p>(a) All FLSA overtime shall be compensated at the time and one-half rate.</p> <p>(b) State Overtime shall be compensated at the straight (hour for hour) rate, unless an exception has been granted by the Commission, or unless the time and one-half rate is allowed under subsection (c) and (d) of this rule.</p> <p>(c) State Overtime performed during official closures due to emergency situations may be compensated at the time and one-half rate.</p> <p>(d) State Overtime performed on a holiday may be compensated at the time and one-half rate.</p>	<p>21.8 Compensation Rate – Non-Exempt Employees</p> <p>(a) All FLSA overtime shall be compensated at the time and one-half rate.</p> <p>(b) State Overtime shall be compensated at the straight (hour for hour) rate, unless an exception has been granted by the Commission, or unless the time and one-half rate is allowed under subsection (c) and (d) and (e) of this rule.</p> <p>(c) State Overtime performed during official closures due to emergency situations may be compensated at the time and one-half rate.</p> <p>(d) State Overtime performed on a holiday may be compensated at the time and one-half rate.</p> <p><u>(e) State Overtime performed related or responsive to a disaster, emergency or health pandemic declared by the governor may be compensated at the time and one-half rate.</u></p>
<p>21.9 Compensation Rate –Exempt Employees</p>	<p>21.9 Compensation Rate –Exempt Employees</p>

<p>The appointing authority shall compensate exempt employees in accordance with one of the following options:</p> <p>(a) No overtime compensation</p> <p>(b) Compensation at the straight (hour for hour) rate</p> <p>(c) Overtime performed during official closures due to emergency situations may be compensated at the time and one-half rate.</p> <p>(d) Compensation at the time and one-half rate may be granted to exempt employees upon Commission approval.</p>	<p>The appointing authority shall compensate exempt employees in accordance with one of the following options:</p> <p>(a) No overtime compensation</p> <p>(b) Compensation at the straight (hour for hour) rate</p> <p>(c) Overtime performed during official closures due to emergency situations may be compensated at the time and one-half rate.</p> <p>(d) Compensation at the time and one-half rate may be granted to exempt employees upon Commission approval.</p> <p><u>(e) Overtime performed related or responsive to a disaster, emergency or health pandemic declared by the governor may be compensated at the time and one-half rate.</u></p>
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The Department recommends amending Chapter 27 to repeal C.S.R. 27.5 related to Overtime Pay Expansion. The proposals contained under Chapter 21 of this General Circular would cover overtime payments allowed under this emergency rule.

CHAPTER 27: RESPONSE TO CORONAVIRUS DISEASE (“COVID-19”)	
CURRENT	PROPOSED
<p>27.5 Overtime Pay Expansion</p> <p>For the duration of this Chapter, state overtime performed by both exempt and non-exempt employees related to the COVID-19 pandemic may be paid at the time and one-half rate.</p>	<p>27.5 Overtime Pay Expansion</p> <p><u>Repealed by Order of the Commission effective July 8, 2020.</u></p>

Should you have any questions about these rules, please contact your Agency Relationship Manager or email SCSInfo@la.gov.

Sincerely,

s/Byron P. Decoteau, Jr.
State Civil Service Director