STATE OF ILLINOIS

EXECUTIVE DEPARTMENT

SPRINGFIELD, ILLINOIS

FILED
INDEX DEPARTMENT
APR 01 2009
IN THE OFFICE OF
SECRETARY OF STATE

EXECUTIVE ORDER **09-06**

EXECUTIVE ORDER TO REORGANIZE AGENCIES BY THE TRANSFER OF THE ILLINOIS HISTORIC PRESERVATION AGENCY TO THE DEPARTMENT OF NATURAL RESOURCES

WHEREAS, the Historic Preservation Agency ("the Agency") operates historic sites and memorials throughout the State; and

WHEREAS, the Agency also operates all state and federal historic preservation and incentive programs in the State, including the National Register of Historic Places; and

WHEREAS, all Illinoisans desire that these resources be protected and available to the public; and

WHEREAS, the mission of the Department of Natural Resources ("the Department") is to manage, protect and sustain Illinois' natural and cultural resources; and

WHEREAS, the Department has considerable experience and expertise in providing services and maintaining sites throughout our State; and

WHEREAS, consolidating the Agency into the Department will ensure that some of the State's most precious resources will be protected and available for the public to visit; and

WHEREAS, consolidating the Agency will be beneficial to the Agency, the Department, and the people of the State of Illinois; and

WHEREAS, substantial benefits can be achieved by the transfer of all functions ("the functions") of the Agency to the Department and the subsequent abolition of the Agency; and

WHEREAS, Article V, Section 11 of the Illinois Constitution provides that the Governor, by Executive Order, may reassign functions among or reorganize executive agencies which are directly responsible to him; and

WHEREAS, Section 3.2 of Executive Reorganization Implementation Act, 15 ILCS 15/3.2, provides that "Reorganization" includes, in pertinent part, (a) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency, and (b) the abolition of the whole or any part of any agency which does not have, or upon the taking effect of such reorganization will not have, any functions; and

WHEREAS, the Agency is an executive agency directly responsible to the Governor; and

WHEREAS, the Department is an executive agency directly responsible to the Governor;

THEREFORE, pursuant to the powers vested in me by Article V, Section 11 of the Illinois Constitution, I hereby order:

I. CONSOLIDATION OF THE AGENCY INTO THE DEPARTMENT

A. Effective July 1, 2009, the Agency shall be consolidated into the Department.

B. The Department shall continue to have an officer as its lead known as the Director who shall be responsible for all Department functions.

C. The Board of Trustees of the Agency shall be dissolved. The State Museum Advisory Board shall advise the Director on issues related to historic preservation.

D. The Director of the Abraham Lincoln Presidential Library and Museum, appointed by the Governor, with the advice and consent of the Senate, shall continue to administer the Library. The Advisory Board of the Abraham Lincoln Presidential Library and Museum shall continue to advise the Library and the Library Director on relevant programs.

II. TRANSFER OF FUNCTIONS

A. Effective July 1, 2009, the functions and all associated powers, duties, rights, and responsibilities of the Agency shall be transferred to the Department. The statutory powers, duties, rights, and responsibilities of the Agency derive from the following Statutes:

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State Employee Housing Act, 5 ILCS 412/5-5, 5-15, 5-20, 5-25, 5-30, 5-35;
Department of Natural Resources Act, 20 ILCS 801/1-5, 80-20, 80-30, 80-35;
Civil Administrative Code, 20 ILCS 805/805-220, 805-315;
Interagency Wetland Policy Act of 1989, 20 ILCS 830/2-1;
Outdoor Recreation Resources Act, 20 ILCS 860/2a, 3a, 4a, 5a;
Historic Preservation Agency Act, 20 ILCS 3405/1 et seq.;
Illinois Historic Preservation Act, 20 ILCS 3410/1 et seq.;
Historical Sites Listing Act, 20 ILCS 3415/0.01 et seq.;
Illinois State Agency Historic Resources Preservation Act, 20 ILCS 3420/1 et seq.;
State Historical Library Act, 20 ILCS 3425/0.01 et seq.;
Old State Capitol Act, 20 ILCS 3430/0.01 et seq.;
Archaeological and Paleontological Resources Protection Act, 20 ILCS 3435/.01 et seq.;
Human Skeletal Remains Protection Act, 20 ILCS 3440/0.01 et seq.;
Heritage Preservation Act, 30 ILCS 145/3;
Public Use Trust Act, 30 ILCS 160/2;
Build Illinois Act, 30 ILCS 750/1-3;
Property Tax Code, Historic Residence Assessment Freeze Law, 35 ILCS 200/10-40, 10-45, 10-50, 10-55, 10-60, 10-65, 10-75, 10-80, 10-85;
Counties Code, 55 ILCS 5/5-31010, 5-31012, 5-31017;
Historical Document Preservation Act, 55 ILCS 120/1 et seq.;
Liquor Control Act of 1934, 235 ILCS 5/6-15;
Illinois Highway Code, 605 ILCS 5/4-201.5.

B. Whenever any provision of an Executive Order or any Act or section thereof transferred by this Executive Order provides for membership of the Director of the Agency on any council, commission, board, or other entity, or provides for the Director of the Agency to make an appointment to any council, commission, board, or other entity, the Director of the Department or his designee shall serve in that place. If more than one such person is required by law to serve on any council, commission, board, or other entity, an equivalent number of representatives of the Department shall so serve.

III. ABOLITION OF AGENCY

The Agency shall be abolished effective July 1, 2009. The rights, powers, and duties associated with the functions vested by law in the Agency, or any office, division, council, committee, bureau, board, commission, officer, employee, or associated individual, person or entity, and all rights, powers, and duties of the Agency related to the functions, including funding mechanisms, shall be transferred to the Department.

IV. EFFECT OF TRANSFER

The powers, duties, rights, and responsibilities related to the functions and transferred from the Agency to the Department shall not be affected by this Executive Order, except that they shall all be carried out by the Department from the effective date of the transfers.

A. The staff of the Agency engaged in the performance of the functions shall be transferred to the Department. The status and rights of such employees under the Personnel Code shall not be affected by the transfers. The rights of the employees, the State of Illinois and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement, or annuity plan shall not be affected by this Executive Order.

B. All books, records, papers, documents, property (real and personal), contracts, and pending business pertaining to the powers, duties, rights, and responsibilities transferred by this Executive Order from the Agency to the Department, including but not limited to material in electronic or

magnetic format and necessary computer hardware and software, shall be delivered to the Department.

C. All unexpended appropriations and balances and other funds available for use in connection with any of the functions shall be transferred for use by the Department for the functions pursuant to the direction of the Governor. Unexpended balances so transferred shall be expended only for the purpose for which the appropriations were originally made.

V. SAVINGS CLAUSE

A. The powers, duties, rights, and responsibilities related to the functions and transferred from the Agency to the Department by this Executive Order shall be vested in and shall be exercised by the Department. Each act done in exercise of such powers, duties, rights, and responsibilities shall have the same legal effect as if done by the Agency, its officers or employees.

B. Every officer of the Department shall, for any offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by existing laws for the same offense by any officer whose powers or duties were transferred under this Executive Order.

C. Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person to or upon the Agency in connection with any of the functions transferred by this Executive Order, the same shall be made, given, furnished, or served in the same manner to or upon the Department.

D. This Executive Order shall not affect any act done, ratified, or canceled, or any right occurring or established or any action or proceeding had or commenced in an administrative, civil, or criminal case regarding the functions of the Agency before this Executive Order takes effect; such actions may be prosecuted or continued by the Department.

E. Any rules of the Agency that relate to the functions, are in full force on the effective date of this Executive Order and that have been duly adopted by the Agency shall become the rules of the Department. This Executive Order shall not affect the legality of any such rules in the Illinois Administrative Code. Any proposed rules filed with the Secretary of State by the Agency that are pending in the rulemaking process on the effective date of this Executive Order and pertain to the functions transferred, shall be deemed to have been filed by the Department. As soon as practicable hereafter, the Department shall revise and clarify the rules transferred to it under this Executive Order to reflect the reorganization of rights, powers, and duties affected by this Order, using the procedures for recodification of rules available under the Illinois Administrative Procedures Act, except that existing title, part, and section numbering for the affected rules may be retained. The Department, consistent with the Agency's authority to do so, may propose and adopt under the Illinois Administrative Procedures Act such other rules of the Agency that will now be administered by the Department. To the extent that, prior to the effective date of the transfers, the Director of the Agency had been empowered to prescribe regulations or had other authority with respect to the transferred functions, such duties shall be exercised from and after the effective date of the transfers by the Director of the Department.

VI. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Pat Quinn

Pat Quinn, Governor

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