

February 21, 2008

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
February 21, 2008

I. OPENING OF MEETING AT 9:07 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris of the Commission staff; Jan Oncken, Central Management Services; Richard Foxman and Theresa Bietsch, Department of Healthcare and Family Services; and Robin Tucker-Smith, Department of Public Health. Commissioner Raymond W. Ewell arrived at 9:12 a.m.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD JANUARY 17, 2008

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 4-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 17, 2008.

IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging	152.....	9
Agriculture	466.....	16
Arts Council.....	23.....	2
Capitol Development Board	36.....	0
Central Management Services	1,518.....	105
Children and Family Services.....	3,198.....	47
Civil Service Commission	4.....	0
Commerce & Economic Opportunity	412.....	66
Commerce Commission.....	68.....	0
Corrections.....	11,931.....	109
Criminal Justice Authority.....	58.....	6
Deaf and Hard of Hearing Comm.	7.....	1
Developmental Disabilities Council	9.....	1
Emergency Management Agency	98.....	2
Employment Security.....	1,631.....	25
Environmental Protection Agency	1,009.....	19
Financial & Professional Regulation	757.....	51
Guardianship and Advocacy	112.....	7
Healthcare and Family Services.....	2,360.....	29
Historic Preservation Agency	244.....	12
Human Rights Commission	9.....	2
Human Rights Department	153.....	8
Human Services	14,688.....	67
Investment Board.....	2.....	2
Juvenile Justice	1,217.....	18
Labor.....	81.....	8
Labor Relations Board Educational	13.....	2
Labor Relations Board State	20.....	2
Law Enforcement Training & Standards Bd.....	20.....	1
Medical District Commission	2.....	0
Military Affairs.....	118.....	3
Natural Resources	1,427.....	27
Pollution Control Board.....	20.....	3
Prisoner Review Board	21.....	0
Property Tax Appeal Board	23.....	2
Public Health.....	1,123.....	37
Revenue	2,068.....	66
State Fire Marshal	157.....	12
State Police	1,457.....	6
State Police Merit Board.....	5.....	1
State Retirement Systems	82.....	1
Transportation.....	4,232.....	1
Veterans' Affairs.....	1,107.....	6
Workers' Compensation Commission	166.....	11
TOTALS	52,304.....	793

B. Governing Rule - Jurisdiction B Exemptions

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
 1. The Governor, or
 2. A departmental director or assistant director appointed by the Governor, or
 3. A board or commission appointed by the Governor, or
 4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
 5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
 6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
 7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.
- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
 1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
 2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board or commission.
 3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

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C. Requests for 4d(3) Exemption

- With regard to Item C, Executive Director Stralka reported this request is for the Chief Legal Counsel for the Department of Agriculture, a position that reports to the Director. Given the responsibilities inherent in the position and past Commission action with similar positions, staff recommended approval of this request. Tammy Payne, Human Resources Manager for the agency, expressed her regrets at being unable to attend the meeting today and respond to any questions that may arise due to a prior commitment involving the Shared Services initiative.
- With regard to Item D, Executive Director Stralka reported this request is for the Chief Technology Officer, Infrastructure Services Division, of the Bureau of Communication and Computer Services (BCCS) in Central Management Services. It reports to the Deputy Director of BCCS – a position that would be considered the equivalent of a statutory Assistant Director – who reports to the Director. This position has principal policy responsibilities in the development and carrying out of programs related to the delivery of mainframe and midrange computer services at a statewide level. Positions of this nature have previously been granted exemption by the Commission, especially after the centralization of computer services in Central Management Services. For these reasons, staff recommended approval.
- With regard to Item E, Executive Director Stralka reported this request is for exemption for the Assistant Warden of Operations for the Northern Reception and Classification Center and the Minimum Security Unit located at Stateville Correctional Center. The agency requested a continuance as it had yet to respond to several questions Staff had regarding this request. Staff recommended that this matter be continued.

Commissioner Peterson inquired of the reason for the continuance request. Executive Director Stralka noted that there was a delay in getting his initial responses out to all the agencies with exemption requests on this month's agenda due to the deadline for completing the recommended decision in the Shelton appeal, a death in the family that necessitated his absence for one day, and the two February holidays prior to this meeting. Executive Director Stralka then explained that the Staff inquiries regarding this request centered on two issues:

1. The organizational distance between this position and the Director of the Agency; and
2. The number of Assistant Wardens at the Stateville Correctional Center that would result from the approval of this request.

Executive Director Stralka noted that Stateville already has been granted principal policy exemptions for an Assistant Warden of Operations and an Assistant Warden of Programs. The subject position is under the agency's Northern Reception and Classification Center program and not the facility's general

operating program. Approval of this position would essentially result in this facility having four principal policy exempt Assistant Warden positions which would be double that of any other facility.

- With regard to Item F, Executive Director Stralka reported that this request is for the Deputy Director for New Initiatives, a principal policy making position reporting to the Director of the Department of Healthcare and Family Services. This position has principal policy development responsibilities in the areas of child support enforcement and medical programs in that it seeks out the best practices in these areas being administered by other states or the federal government and then makes independent determinations whether it would be viable to introduce and implement such best practices in Illinois. If viable, this position is involved in formulating such best practices into agency policy.

There was some initial Staff concern regarding potential overlap with the agency's Strategic Planning Advisor position, but the agency responded by noting that this latter position is more involved in the overall coordination of agency policy not only within the agency, but also inter-agency as well as with the federal government. That differs significantly with the subject position which is more of an initiator. Considering this, along with the nature of the agency's work, Staff recommended approval of this request.

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 4-0 (WITH COMMISSIONER EWELL VOTING PRESENT) TO GRANT AND CONTINUE THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:

The following 4d(3) exemption requests were granted on February 21, 2008:

C. Illinois Department of Agriculture

Position Number	40070-11-01-300-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Executive Office
Functional Title	Chief Legal Counsel
Incumbent	None
Supervisor	Director
Location	Sangamon County

D. Illinois Department of Central Management Services

Position Number	40070-37-11-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Bureau of Communication and Computer Services (BCCS)
Functional Title	Chief Technology Officer, Infrastructure Services Division
Incumbent	Kevin Rademacher
Supervisor	BCCS Deputy Director, who reports to the Director
Location	Sangamon County

F. Illinois Department of Healthcare and Family Services

Position Number	40070-33-00-900-00-21
Position Title	Senior Public Service Administrator
Bureau/Division	Office of the Director
Functional Title	Deputy Director for Policy Coordination and New Initiatives
Incumbent	None
Supervisor	Director
Location	Cook County

The following 4d(3) exemption request was continued on February 21, 2008:

E. Illinois Department of Corrections

Position Number	40070-29-82-400-30-01
Position Title	Senior Public Service Administrator
Bureau/Division	Stateville Correctional Center
Functional Title	Assistant Warden of Operations-Reception & Classification Ctr.
Incumbent	None
Supervisor	Warden of Stateville Correctional Center, who reports to District 1 Deputy Director, who reports to the Chief of Operations, who reports to the Chief of Staff, who in turn reports to the Director
Location	Will County

Prior to addressing Items G1 and G10 on the agenda, Executive Director Daniel Stralka reiterated for the Commissioners that the original list of Commission-initiated rescissions for January's meeting contained 36 positions, most of which had been vacant in excess of six months. Notice went out to both the Director of Central Management Services and each affected Agency Director of the proposed rescissions. After discussions with many of the affected agencies, many of the concerns that led to the proposed rescission notices were resolved and only 31 were placed on the January agenda, with ten being continued to February. If the Commission approves the rescission of 4d(3) exempt status for any of these positions, it does not mean that the position is eliminated, only that the position is subject to the merit and fitness provisions of the Personnel Code and Rules.

Finally, if a position has its exempt status rescinded and an agency subsequently decides that it believes exemption is warranted, there is nothing that prevents it from making a new request for exemption next month.

- With regard to Item G1-G5, G7, and G10, Executive Director Daniel Stralka reported these are the seven current positions which are in bargaining units or have exclusion petitions pending. Since the January meeting, he has been in contact with the State Labor Relations Board and hopes to follow up in the next two weeks. It is Executive Director Stralka's assessment that this potential conflict will be addressed on a more global scale rather than on the position-by-position basis being used here. It is the Staff recommendation that these proposed rescissions be denied. This does not mean that the issue has been resolved, only that it is not appropriately addressed in this matter.
- With regard to Item G6, Executive Director Daniel Stralka reported this is the Gaming Board Deputy Administrator of Investigations. He indicated he had recently conferred with Jodie Winnett from the Department of Revenue and Mark Ostrowski, the Executive Director of the Gaming Board. This is a unique situation whereby this function is essentially shared by the subject position with the Department of Revenue and a sworn officer position with the Illinois State police. Depending on the needs of the Gaming Board, the Executive Director will fill the position using the State Police position if there is a need for a law enforcement professional, or he will fill it using the subject position if there is a greater need for a revenue investigator. Since it has been filled with a sworn officer over the past several years, it appeared to have an extended vacancy. In light of this explanation, it is the Staff recommendation to deny the proposed rescission.
- With regard to Item G8, Executive Director Daniel Stralka indicated that the agency has no objection to the Staff recommendation of rescission for this position. For that reason, it is the Staff recommendation to approve this rescission.
- With regard to Item G9, Executive Director Stralka reported that the agency has a pending EPAR for this position. For that reason, it is the Staff recommendation to deny the proposed rescission. Staff will monitor the agency's progress in filling this position.

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 5-0 TO APPROVE AND DENY THE PROPOSED RESCISSIONS FROM 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:

The following 4d(3) exemption rescission was approved on February 21, 2008:

Agenda Item	Agency	Position Number	Functional Title
G8	IWCC	40070-50-37-500-00-07	Mgr., Arbitration & Support Staff

The following 4d(3) exemption rescissions were denied on February 21, 2008:

Agenda Item	Agency	Position Number	Functional Title
G1	Aging	00502-47-00-400-01-01	Legislative Liaison
G2	CMS	00502-37-06-000-01-01	Legislative Liaison
G3	CMS	00501-37-06-000-01-02	Legislative Liaison
G4	DCFS	13852-16-00-320-00-01	Legislative Liaison
G5	DCFS	13852-16-00-300-10-01	Legislative Liaison
G6	Gaming	40070-25-61-000-00-01	Mgr., Enforcement/Investigations
G7	IDPH	13852-20-02-000-20-01	Legislative Liaison
G9	IWCC	40070-50-37-200-00-01	Assistant Secretary
G10	Revenue	00501-25-04-110-00-02	Legislative Liaison

V. CLASS SPECIFICATIONS

The Director of Central Management Services submitted the following class title for creation:

A. Position Title

Clinical Psychology Associate (new)

Staff Analysis: Andrew Barris, Assistant Executive Director, reported that the Department of Human Services (DHS), Division of Mental Health requested the creation of a Clinical Psychology Associate class. With this class, the Department will be able to incorporate changes in the Illinois Licensure Laws as reflected by the current Department of Financial and Professional Regulations standards, as well as assist DHS in the recruitment of licensed-eligible clinical psychologists. The Clinical Psychology Associate will provide a bridge for pre-doctoral clinical psychology interns to progress within the State system and continue their statutorily required clinical training in order to meet legal requirements to be admitted for examination to become licensed Clinical Psychologists. This new class brings the Division of Mental Health into compliance with the changes in the State statute and the Illinois Department of Financial and Professional Regulations requirements.

February 21, 2008

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER PETERSON AND THE MOTION ADOPTED 5-0 TO APPROVE THE CREATION OF THE FOLLOWING CLASS TITLE TO BE EFFECTIVE MARCH 1, 2008:

Clinical Psychology Associate (new)

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION ADOPTED 5-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

VI. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE THE MOTION ADOPTED 5-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 9:55 a.m.

PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; and Andrew Barris of the Commission staff.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code, however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	12/31/07	1/31/08	1/31/07
Agriculture	0	1	1
Arts Council	0	1	1
Central Management Services	4	2	4
Children and Family Services	4	4	8
Employment Security	0	0	1
Financial and Professional Regulation	0	0	1
Healthcare and Family Services	6	6	7
Historic Preservation	2	1	0
Human Services	3	4	3
Natural Resources	23	7	7
Property Tax Appeal Board	0	0	2
State Fire Marshal	0	0	1
State Retirement Systems	0	0	1
Transportation	45	62	74
Veteran's Affairs	1	0	0
<u>Totals</u>	88	88	111

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

• DISCHARGE

DA-6-08

Employee	M. KiVaughn Shelton	Appeal Date	8/13/07
Agency	DCFS	Decision Date	2/08/08
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Engaged in a sexual relationship with a subordinate; had a sexual encounter in a DCFS office; gave preferential treatment to this subordinate; misused DCFS e-mail and telephone system	Recommended Decision	Discharge upheld.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY CHAIRMAN KOLKER AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO MODIFY AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGES FOR DISCHARGE HAVE BEEN PROVEN, BUT GIVEN: SHELTON'S 13 YEARS OF SERVICE TO THE STATE WITHOUT ANY PRIOR DISCIPLINE AND HIS ACCEPTABLE PERFORMANCE RECORD; EVIDENCE INDICATING SHELTON DID TAKE STEPS – THOUGH THEY WERE INADEQUATE – TO NOTIFY HIS SUPERIORS OF THE RELATIONSHIP AND REMOVE THE SUBJECT OF HIS RELATIONSHIP FROM UNDER HIS SUPERVISORY UMBRELLA; THE SUSPENSION ADMINISTERED TO HIS SUBORDINATE FOR ESSENTIALLY THE SAME OFFENSES, EVEN THOUGH THE COMMISSION NOTES THAT SHELTON AS THE SUPERVISOR HAD THE GREATER RESPONSIBILITY IN THIS MATTER TO TAKE ACTION TO RECTIFY THE SITUATION AND WOULD THEREFORE RESULT IN A GREATER LEVEL OF DISCIPLINE; AND THE AGENCY'S ACTION NOT TO ADMINISTER ANY DISCIPLINE IN ANOTHER CASE WITH A SIMILAR FACT PATTERN, EVEN THOUGH THERE WAS NO EVIDENCE THAT A SEXUAL ENCOUNTER OCCURRED ON AGENCY PROPERTY IN THAT CASE, THE UNIQUE FACTUAL CIRCUMSTANCES SURROUNDING THE DISCHARGE DO NOT RISE TO THE LEVEL WHICH SOUND PUBLIC OPINION RECOGNIZES AS GOOD CAUSE FOR THE EMPLOYEE TO NO LONGER HOLD THE POSITION. THEREFORE, THE PROVEN CHARGES WARRANT A 90-DAY SUSPENSION IN LIEU OF DISCHARGE.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

- **ALLOCATION APPEAL**

AA-34-07

Employee	Michelle Wethington	Appeal Date	3/27/07
Agency	CMS	Decision Date	2/05/08
Type	Allocation	ALJ	Andrew Barris
Charge(s)	Position should be allocated to Administrative Assistant II	Proposed Finding	Appeal denied; employee did not prove by a preponderance of the evidence that position was more appropriately allocated to AA II.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY CHAIRMAN KOLKER AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSED FINDING THAT THE PETITIONER DID NOT PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT HER POSITION CLASSIFICATION WAS INAPPROPRIATELY ALLOCATED. THEREFORE, THE APPEAL IS DENIED.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

X. **APPEALS TERMINATED WITHOUT DECISION ON THE MERITS**

- **DISMISSED**

RV-1-08

Employee	Michael Wiehle	Appeal Date	7/05/07
Agency	DHS	Decision Date	1/15/08
Type	Rule Violation	ALJ	Andrew Barris
Charge(s)	Alleges violation of veterans' preference in hiring	Proposed Finding	Dismissed subject to approval of Commission; default (failure to appear at hearing).

DA-12-08

Employee	William R. Jones	Appeal Date	10/16/07
Agency	DHS	Decision Date	01/24/08
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Failure to perform job duties; failure to understand & apply rules and to seek clarification and contacts in community	Recommended Decision	Dismissed subject to approval of Commission; withdrawn.

S-16-08

Employee	Steven E. Richie	Appeal Date	10/31/07
Agency	DHS	Decision Date	01/24/08
Type	Suspension	ALJ	Andrew Barris
Charge(s)	Conduct unbecoming (awarded a contract to company owned by a relative; authorized temporary assignment pay for office clerk to office assistant)	Recommended Decision	Dismissed subject to approval of Commission; withdrawn

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSED FINDING/RECOMMENDED DECISIONS TO DISMISS THE WIEHLE APPEAL, THE JONES APPEAL, AND THE RICHIE APPEAL.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

XI. STAFF REPORT

Executive Director Daniel Stralka reported that:

- The report for the compliance audit for the two years ended June 30, 2007 of Commission records was released January 31, 2008. There were no findings. Chairman Kolker and the Commissioners thanked the Commission staff for their efforts in receiving a clean audit report.

At the conclusion of the Staff Report, Commission Dalianis informed the Commissioners that he had a conflict with the scheduled May meeting because he is invited to make a presentation at the 57th annual conference for the Illinois Association of School Business Officials. After discussion, it was the consensus of the Commission to reschedule the April and May meetings for 2008 as follows:

- The April meeting will be held on Thursday, April 17, 2008 as scheduled, but the location will be changed to the Springfield office of the Commission. The meeting will start at 10:30 a.m.
- The May meeting will be rescheduled to Friday, May 16, 2008 and the location will be changed to the Chicago office of the Commission. The meeting will start at 2:00 p.m.

Commission staff was directed to take all necessary steps to publicize these rescheduled meetings and to ensure the Commission was in compliance with the Open Meetings Act.

February 21, 2008

XII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on March 20, 2008 at 9:00 a.m. in the Commission's Chicago office.

XIII. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY CHAIRMAN KOLKER, AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 10:12 AM.