

March 15, 2007

MINUTES  
ILLINOIS CIVIL SERVICE COMMISSION  
March 15, 2007

I. OPENING OF MEETING AT 9:04 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; George E. Richards, Raymond W. Ewell, and Barbara J. Peterson, Commissioners; Daniel Stralka, Executive Director; Andrew Barris of the Commission staff; and Jan Oncken of Illinois Department of Central Management Services.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD FEBRUARY 15, 2007

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER RICHARDS AND THE MOTION ADOPTED 4-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 15, 2007.**

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 .....	150.....	9
Agriculture .....	464.....	17
Arts Council.....	23.....	2
Capitol Development Board .....	32.....	0
Central Management Services .....	1,581.....	111
Children and Family Services.....	3,320.....	41
Civil Service Commission .....	4.....	0
Commerce & Economic Opportunity .....	421.....	64
Commerce Commission.....	52.....	0
Corrections.....	12,396.....	101
Criminal Justice Authority.....	64.....	6
Deaf and Hard of Hearing Comm. ....	6.....	1
Developmental Disabilities Council .....	10.....	1
Emergency Management Agency .....	104.....	1
Employment Security.....	1,733.....	26
Environmental Protection Agency .....	1,071.....	18
Financial & Professional Regulation .....	790.....	42
Guardianship and Advocacy .....	113.....	7
Healthcare and Family Services.....	2,369.....	29
Historic Preservation Agency .....	251.....	11
Human Rights Commission .....	12.....	2
Human Rights Department .....	136.....	8
Human Services .....	14,580.....	66
Investment Board.....	4.....	2
Juvenile Justice .....	1,300.....	18
Labor.....	72.....	8
Labor Relations Board Educational .....	14.....	2
Labor Relations Board Local .....	1.....	0
Labor Relations Board State .....	20.....	2
Law Enforcement Training & Standards Bd.....	21.....	1
Medical District Commission .....	2.....	0
Military Affairs .....	142.....	3
Natural Resources .....	1,426.....	27
Pollution Control Board.....	26.....	3
Prisoner Review Board .....	22.....	0
Property Tax Appeal Board .....	26.....	2
Public Health.....	1,097.....	35
Revenue .....	2,039.....	63
State Fire Marshal.....	159.....	11
State Police .....	1,484.....	6
State Police Merit Board.....	5.....	1
State Retirement Systems .....	80.....	1
Transportation.....	3,824.....	1
Veterans' Affairs.....	1,177.....	5
Workers' Compensation Commission .....	175.....	10
<b>TOTALS .....</b>	<b>52,798.....</b>	<b>764</b>

**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.

\* \* \*

**C. Requests for 4d(3) Exemption**

- With regard to Item C, Executive Director Daniel Stralka reported that this request was withdrawn by the agency.
- With regard to Item D, Executive Director Daniel Stralka reported that staff analysis identified potential overlapping principal responsibilities. As the agency failed to respond to staff inquiries regarding this issue, staff recommended denial of this request.
- With regard to Item E1, Executive Director Daniel Stralka reported that this position reported to the Director of Insurance and there was no similar program in the Illinois Workers' Compensation Commission. For these reasons, staff recommended approval. Chairman Kolker noted that the enabling legislation placed these programmatic responsibilities with the Department of Insurance.
- With regard to Items E2, E3 and E4, Executive Director Daniel Stralka reported that there have been several discussions with the agency over a number of issues raised by staff regarding the eligibility of these positions. The agency requested additional time to respond to these issues, and staff agreed to recommend that these requests be continued. Commissioner Peterson noted that it is incumbent on agencies to promptly respond to staff inquiries so final determinations can be made on principal policy exemption requests.

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

**The following 4d(3) exemption request was granted on March 15, 2007:**

**E1. Illinois Department of Financial and Professional Regulation**

Position Number	40070-13-30-400-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Department of Insurance
Functional Title	Deputy Director of Workers' Compensation Fraud
Incumbent	None
Supervisor	Director of Insurance (reports to Secretary)
Location	Cook County

**The following 4d(3) exemption requests were continued on March 15, 2007:**

**D. Illinois Department of Human Services**

Position Number	40070-33-00-900-00-21
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Deputy Director for Policy
Incumbent	None
Supervisor	Director
Location	Cook County

**E2. Illinois Department of Financial and Professional Regulation**

Position Number	40070-13-40-940-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Professional Regulation
Functional Title	Director of Real Estate Investigations
Incumbent	None
Supervisor	Director of State-wide Enforcement (who reports to Director, who in turn reports to Secretary)
Location	Cook County

**E3. Illinois Department of Financial and Professional Regulation**

Position Number	40070-13-40-950-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Professional Regulation
Functional Title	Director of Pharmacy Investigations
Incumbent	Yashwant M. Amin
Supervisor	Director of State-wide Enforcement (who reports to Director, who in turn reports to Secretary)
Location	Cook County

**E4. Illinois Department of Financial and Professional Regulation**

Position Number	40070-13-40-960-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Professional Regulation
Functional Title	Director of Athletics
Incumbent	Ronald A. Puccillo
Supervisor	Director of State-wide Enforcement (who reports to Director, who in turn reports to Secretary)
Location	Cook County

March 15, 2007

V. CLASS SPECIFICATIONS

- None submitted.

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER RICHARDS AND THE MOTION ADOPTED 4-0 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 EWELL, AND BY ROLL CALL VOTE THE MOTION ADOPTED 4-0 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	RICHARDS	YES
PETERSON	YES	EWELL	YES
BUKRABA			

March 15, 2007

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 11:00 a.m.

PRESENT

Chris Kolker, Chairman; George E. Richards, Raymond W. Ewell, and Barbara J. Peterson, Commissioners; Daniel Stralka, Executive Director; Andrew Barris of the Commission staff; and Mr. Craig A. Hale and Mrs. Sharon Hale.

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	1/31/07	2/28/07	2/28/06
Agriculture	1	2	2
Arts Council	1	1	1
Central Management Services	4	1	0
Children and Family Services	8	8	9
Commerce and Economic Opportunity	0	0	1
Emergency Management Agency	0	0	1
Employment Security	1	2	0
Environmental Protection Agency	0	0	1
Financial and Professional Regulation	1	1	2
Healthcare and Family Services	7	6	5
Historic Preservation	0	1	0
Human Services	4	3	5
Natural Resources	6	3	3
Property Tax Appeal Board	2	2	1
State Fire Marshal	1	1	0
State Retirement Systems	1	1	0
Transportation	74	90	34
Veterans' Affairs	0	2	2
<u>Totals</u>	111	124	67

Executive Director Daniel Stralka noted that he met with Central Management Services regarding the Consecutive Non-Merit Appointment report.

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

- DISCHARGE APPEAL

DA-3-07

Employee	Gregory Gill	Appeal Date	07/14/06
Agency	EMA	Decision Date	03/02/07
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Abuse of telephone system, insubordination, unauthorized absences; falsification of information; driving with a suspended driver's license	Recommended Decision	Charges are proven and do warrant discharge.

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGES FOR DISCHARGE HAVE BEEN PROVEN, AND DO WARRANT THE DISCHARGE OF THE EMPLOYEE.

KOLKER	YES	RICHARDS	YES
PETERSON	YES	EWELL	YES
BUKRABA			

- DISCHARGE APPEAL

DA-7-07

Employee	Marilyn Summers	Appeal Date	09/29/06
Agency	DHS	Decision Date	03/01/07
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Failure to return from leave of absence	Recommended Decision	Charge is proven but unique factual circumstances do not warrant discharge.

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER PETERSON TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGE FOR DISCHARGE IS PROVEN, BUT 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. GIVEN THE EMPLOYEE'S SERVICE TO THE STATE AND THE INJURIES INCURRED IN SUCH SERVICE, THE EMPLOYEE SHALL BE

March 15, 2007

**GIVEN AN OPPORTUNITY TO SUBMIT THE APPROPRIATE DOCUMENTATION TO OBTAIN AND/OR EXTEND A LEAVE OF ABSENCE.**

<b>KOLKER</b>	<b>YES</b>	<b>RICHARDS</b>	<b>NO</b>
<b>PETERSON</b>	<b>YES</b>	<b>EWELL</b>	<b>NO</b>
<b>BUKRABA</b>			

**BY ROLL CALL VOTE OF 2-2 THE MOTION IS LOST.**

**IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL TO REMAND THIS MATTER BACK TO THE ADMINISTRATIVE LAW JUDGE FOR THE PURPOSE OF TAKING ADDITIONAL EVIDENCE AND/OR ARGUMENT.**

<b>KOLKER</b>	<b>NO</b>	<b>RICHARDS</b>	<b>YES</b>
<b>PETERSON</b>	<b>NO</b>	<b>EWELL</b>	<b>YES</b>
<b>BUKRABA</b>			

**BY ROLL CALL VOTE OF 2-2 THE MOTION IS LOST.**

- **DISCHARGE APPEAL**

**DA-14-07**

Employee	Marie Wroblewski	Appeal Date	12/04/06
Agency	DHS	Decision Date	03/02/07
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Unauthorized absences/tardiness	Recommended Decision	Charges are proven and do warrant discharge.

**IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER PETERSON, AND BY ROLL CALL VOTE OF 3-1 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGES FOR DISCHARGE HAVE BEEN PROVEN, AND DO WARRANT THE DISCHARGE OF THE EMPLOYEE.**

<b>KOLKER</b>	<b>NO</b>	<b>RICHARDS</b>	<b>YES</b>
<b>PETERSON</b>	<b>YES</b>	<b>EWELL</b>	<b>YES</b>
<b>BUKRABA</b>			

- **RULE VIOLATION APPEAL**

**RV-23-03**

Petitioner	AFSCME	Appeal Date	10/31/02
Agency	Various Agencies	Decision Date	01/22/07
Type	Rule Violation	ALJ	Daniel Stralka
Charge(s)	Employees laid off while agencies use personal service contracts to fill positions	Proposed Finding	No jurisdiction.

**IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER PETERSON AND BY ROLL CALL VOTE OF 3-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S PROPOSED FINDING THAT UPON REMAND OF THIS APPEAL FROM THE APPELLATE COURT FOR INVESTIGATION OF AFSCME’S COMPLAINT IN ACCORDANCE WITH APPLICABLE STATUTE AND REGULATION, IT IS HEREBY DETERMINED THAT THE COMMISSION HAS NO JURISDICTION OVER THIS MATTER RELATING TO THE USE OF PERSONAL SERVICE CONTRACTS TO FILL POSITIONS WHILE STATE OF ILLINOIS EMPLOYEES WERE LAID OFF IN 2002. THE COMMISSION’S AUTHORITY TO HEAR ANY COMPLAINT THAT THE USE OF PERSONAL SERVICE CONTRACTS BY THE STATE IS A VIOLATION OF THE PERSONNEL CODE OR RULES HAS BEEN SUPERSEDED BY THE COLLECTIVE BARGAINING AGREEMENT AND MEMO OF UNDERSTANDING IN ACCORDANCE WITH SECTION 15 OF THE ILLINOIS PUBLIC LABOR RELATIONS ACT. AFSCME DID IN FACT PURSUE A REMEDY TO THIS SITUATION THROUGH ARBITRATION AND WHEN THEY WERE UNSUCCESSFUL, THEY FILED AN ALLEGATION OF RULE VIOLATION WITH THE CIVIL SERVICE COMMISSION. THE UNDERSIGNED APPROVE AND ADOPT THE DISMISSAL OF THE APPEAL. CHAIRMAN KOLKER ABSTAINED.**

<b>KOLKER</b>		<b>RICHARDS</b>	<b>YES</b>
<b>PETERSON</b>	<b>YES</b>	<b>EWELL</b>	<b>YES</b>
<b>BUKRABA</b>			

- **RULE VIOLATION APPEAL**

**RV-44-06**

Petitioner	Justin Hale	Appeal Date	05/09/06
Agency	DHS	Decision Date	02/21/07
Type	Rule Violation	ALJ	Andrew Barris
Charge(s)	Alleged violation of Personnel Rules in selecting interview candidates for vacant position	Proposed Finding	Agency violated the Personnel Rules.

**IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER PETERSON AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S PROPOSED FINDING THAT THE PETITIONER HAS PROVED BY A PREPONDERANCE OF THE EVIDENCE THAT THE ‘FILLING OF A VACANT POSITION’ AT HOWE WAS NOT DONE IN A ‘WAY’ SET FORTH IN SECTION 302.90(a) OF THE PERSONNEL RULES. THE RESPONDENT DID NOT REBUT THIS PRESUMPTION BY THE SAME QUANTITY OF EVIDENCE. THE RESPONDENT IS ORDERED TO COME IN COMPLIANCE WITH THE PERSONNEL CODE AND RULES BY EITHER SELECTING AND INTERVIEWING CANDIDATES FROM THE ELIGIBLE LIST AND SUBSEQUENTLY FILLING THE VACANCIES WITH CANDIDATES DERIVED FROM THIS LIST, OR BY SELECTING, INTERVIEWING, AND FILLING THE VACANCIES FROM THE LIST OF PROMOTIONAL CANDIDATES – ONE OF THE TWO ‘WAYS’ THAT THE RESPONDENT INITIALLY OPTED TO USE.**

<b>KOLKER</b>	<b>YES</b>	<b>RICHARDS</b>	<b>YES</b>
<b>PETERSON</b>	<b>YES</b>	<b>EWELL</b>	<b>YES</b>
<b>BUKRABA</b>			

March 15, 2007

X. APPEALS TERMINATED WITHOUT DECISION ON THE MERITS

• DISMISSED

DA-22-07

Employee	Darlisha Britton	Appeal Date	01/08/07
Agency	DHS	Decision Date	03/05/07
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Unauthorized absences	Recommended Decision	Dismissed subject to Commission approval; default (no show at hearing).

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER PETERSON, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO APPROVE AND ADOPT THE DISMISSAL OF THE BRITTON APPEAL.**

<b>KOLKER</b>	<b>YES</b>	<b>RICHARDS</b>	<b>YES</b>
<b>PETERSON</b>	<b>YES</b>	<b>EWELL</b>	<b>YES</b>
<b>BUKRABA</b>			

XI. STAFF REPORT

Executive Director Daniel Stralka reported that:

- The Travel Control Board announced that the state mileage reimbursement rate would be \$.485 per mile effective July 1, 2007. The ban on staying at the Abraham Lincoln Hotel has been lifted.
- Executive Director Daniel Stralka and Sandra Guppy attended the House Appropriation Committee hearing on March 14, 2007. The Commission's revised budget request for fiscal year 2008 is \$441,250 which represents a 15.8% increase over fiscal year 2007.
- The Commission is now enrolled in a new tele-interpretation service which provides interpretation services in 150 languages. Services are paid for as utilized.

XII. PRESENTATION ON OPEN MEETINGS ACT

The presentation on the Open Meetings Act was deferred until the next regularly scheduled meeting of the Civil Service Commission on April 19, 2007.

March 15, 2007

XIII. REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO OPEN MEETINGS ACT

**IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY CHAIRMAN KOLKER, AND THE MOTION ADOPTED 4-0 THAT AFTER REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO THE OPEN MEETINGS ACT, THE NEED FOR CONFIDENTIALITY STILL EXISTS AS TO ALL THOSE MINUTES.**

<b>KOLKER</b>	<b>YES</b>	<b>RICHARDS</b>	<b>YES</b>
<b>PETERSON</b>	<b>YES</b>	<b>EWELL</b>	<b>YES</b>
<b>BUKRABA</b>			

XIV. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on April 19, 2007 at 9:00 a.m. in the Commission's Chicago office.

XV. RECOGNITION OF COMMISSIONER GEORGE E. RICHARDS' ELEVEN YEARS OF SERVICE

**ON MOTION OF CHAIRMAN KOLKER, SECONDED BY COMMISSIONER PETERSON (WHICH WAS JOINED IN BY COMMISSIONERS EWELL AND BUKRABA), A RESOLUTION WAS MADE AND UNANIMOUSLY PASSED TO RECOGNIZE COMMISSIONER GEORGE E. RICHARDS' MANY YEARS OF SERVICE TO THE CIVIL SERVICE COMMISSION AS CHAIRMAN AND COMMISSIONER. A SUITABLE COPY OF THIS RESOLUTION OF APPRECIATION IS TO BE FRAMED AND PRESENTED TO COMMISSIONER RICHARDS.**

Upon passage of the motion, Commissioner Richards thanked the Chairman, his fellow Commissioners and Commission staff for their assistance throughout his tenure at the Commission.

XVI. MOTION TO ADJOURN

**IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER PETERSON AND THE MOTION ADOPTED 4-0 TO ADJOURN THE MEETING AT 11:20 A.M.**