

March 20, 2008

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
March 20, 2008

I. OPENING OF MEETING AT 9:00 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, 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; Robin Tucker-Smith, Department of Public Health; Rebecca Shuster, Public Safety Shared Services Center; and Tina Neely, Shared Services Program.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD FEBRUARY 21, 2008

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 21, 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	156.....	9
Agriculture	472.....	16
Arts Council.....	23.....	2
Capitol Development Board	36.....	0
Central Management Services	1,532.....	105
Children and Family Services.....	3,199.....	47
Civil Service Commission	4.....	0
Commerce & Economic Opportunity	410.....	67
Commerce Commission.....	67.....	0
Corrections.....	11,870.....	109
Criminal Justice Authority.....	58.....	6
Deaf and Hard of Hearing Comm.	7.....	1
Developmental Disabilities Council	9.....	1
Emergency Management Agency	97.....	2
Employment Security.....	1,628.....	25
Environmental Protection Agency	1,014.....	19
Financial & Professional Regulation	759.....	51
Guardianship and Advocacy	112.....	7
Healthcare and Family Services.....	2,386.....	29
Historic Preservation Agency	241.....	12
Human Rights Commission	9.....	2
Human Rights Department	151.....	9
Human Services	14,698.....	66
Investment Board.....	2.....	2
Juvenile Justice	1,211.....	18
Labor.....	81.....	8
Labor Relations Board Educational	12.....	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	1,416.....	27
Pollution Control Board.....	20.....	3
Prisoner Review Board	22.....	0
Property Tax Appeal Board	23.....	2
Public Health.....	1,137.....	37
Revenue	2,103.....	66
State Fire Marshal	156.....	13
State Police	1,456.....	6
State Police Merit Board.....	6.....	1
State Retirement Systems	83.....	1
Transportation.....	4,311.....	1
Veterans' Affairs.....	1,124.....	6
Workers' Compensation Commission	169.....	11
TOTALS	52,430.....	795

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 explained that this request is for exemption for the Assistant Warden of Operations for the Northern Reception and Classification Center (NR&CC) and the Minimum Security Unit located at Stateville Correctional Center. According to the documentation submitted by the agency, this position reports to the 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 – five levels removed from the Agency Director. The agency clarified this to indicate that the Chief of Staff is not in the chain of command, making this position only four levels removed from the Director. The agency is relying on an exception to the reporting requirement that was first utilized by the Commission approximately 30 years ago when it first granted 4d(3) exemption to Assistant Wardens of Programs and Operations at correctional centers since they function as the heads of the institutions in the absence of the warden. Such 4d(3) positions exist at every correctional center. However, the twist in this case is that the Stateville Correctional Center already has 4d(3) exempt Assistant Wardens of Programs and Operations. In this case, the agency is arguing that Stateville houses two separate “facilities” – one being the correctional center and the other being the Northern Reception and Classification Center – and that each, due to the number of inmates – approximately 1500 at each – and their separate security, dietary, healthcare and recreation staffs is entitled to their own principal policy exempt Assistant Wardens of Programs and Operations.

Even though the Department of Corrections considers them separate facilities, they are in close proximity, only one mile apart, and, importantly, the Assistant Wardens for both the corrections facility and the Northern Reception and Classification Center would report to the same person, the Warden of Stateville. There is only one Warden for Stateville. That is noteworthy due to the basis of the exemption for Assistant Wardens.

Executive Director Stralka noted that Section 4d(3) calls for the Commission to use its judgment when approving requests for principal policy exemption requests. In this case, from a historical perspective, the Commission made a determination back in 1980 to exempt Assistant Warden positions for the reasons set forth above. Staff is unaware of any prior request from Corrections in which it sought 4d(3) exemption for more than two Assistant Wardens at any physical correctional location. From that perspective, the request should be denied. However, there are unusual circumstances present which also favor granting this exemption such as the programmatic distinction between the correctional program and the Northern Reception and Classification Center program, one mile physical separation, separate staffs, and the size of both programs at Stateville. There is nothing historically that indicates whether such factors were ever considered by the Commission in any Department of Corrections Assistant Warden exemption requests.

Another tangential issue is the reported potential closing of the Stateville correctional facility with the inmates to be transferred to Thomson, though if that occurs and the Northern Reception and Classification Center program stays at Stateville that would argue in favor of granting their exemption since the basis for the exemptions of the two Assistant Wardens for Stateville Corrections would be removed. The agency has indicated that the proposal is not to close Stateville, but to transfer the maximum security prisoners out.

Rebecca Shuster was present to address the Commission regarding these exemption requests, to correct or add to any of the Staff comments, and to respond to any questions the Commission may have. Before turning the floor over to her, Executive Director Stralka requested that if the Commission grants this request, it should make a special note to indicate that it is not setting any general precedent for the approval of more than two Assistant Wardens to receive 4d(3) exemption at any Department of Corrections correctional facility, and is only doing so due to the distinctions between the two programs served at this correctional location.

Rebecca Shuster, Assistant Deputy Director, Human Resources Strategic Processes, Public Safety Shared Services Center, explained to the Commissioners that Stateville is a unique correctional facility in that it houses three different programs: a maximum security program; a minimum security program; and the Northern Reception and Classification Center. The Department of Corrections has an agreement with Cook County to maintain the NR&CC, and Cook County transfers 600 prisoners a week to Stateville. Even though it is called the Stateville Correctional Center, it is in reality home to "two huge facilities" - the prison and the NR&CC - each staffed with its own Assistant Warden of Operations who has responsibility for the security staff and an Assistant Warden of Programs who has responsibility for the administration and programs in each facility while the Warden has overall responsibility for both facilities in Stateville. Commissioner Peterson inquired whether Stateville would be closing, and Rebecca Shuster responded that only the maximum security operation is being contemplated for relocation. It would still house minimum security inmates and it was anticipated that this population would increase. Ms. Shuster also noted that the Reception and Classification Center for the southern part of the State is located at the Graham Correctional Center and only houses 325 inmates. Due to its smaller size, the agency has no intent to request any additional 4d(3) positions at Graham. Commissioner Dalianis inquired whether the granting of this request would be consistent with past Commission practice. Executive Director Stralka responded that it would, provided the Commission views the NR&CC as a separate program or facility from the incarceration program at Stateville. Chairman Kolker noted that there were other principal policy exempt positions on the organizational chart at the same reporting level as the requested position. Executive Director Stralka indicated that as the Department of Corrections has added administrative layers since 1980, the Assistant Wardens of Programs and Operations positions at each correctional center have been pushed further away from the agency Director. However, when 4d(3) exemptions for these positions were first considered and

granted starting in 1980, the basis for the exemption - that when an Assistant Warden is the duty warden, they act as the de facto warden and the decisions they make affect the institutions in the same manner that decisions the actual wardens make - has not changed regardless of how many organizational levels removed they are from the Director. This applies to all Assistant Warden positions throughout the Department of Corrections.

- With regard to Items D1, D2, and D3, Executive Director Stralka noted the requests are for the following fiscal positions within the Public Safety Shared Services Center:
 - I. Assistant Deputy Director, Fiscal Operations
 - II. Assistant Deputy Director, Fiscal Accounting Compliance
 - III. Assistant Deputy Director, Fiscal Strategic Planning

These positions will report to the Fiscal Deputy Director of the Shared Services Center (SSC), a position that has also been described as the Chief Fiscal Officer which reports to the Shared Services Center Director. To meet the reporting requirement, this is similar in an agency to a Deputy Director who is the equivalent of a statutory Assistant Director. This also requires treatment of the SSC Director to be treated as the equivalent of an agency director. The Fiscal Deputy Director was previously granted 4d(3) exempt status and is the principal policy developer with regard to all aspects of financial administration in the Shared Services Center. These positions will have principal administrative responsibility for the way in which the following fiscal functions are carried out in and for the benefit of their subordinate agencies, with these being split between the three positions:

- I. Fiscal Operations: fixed assets/property control, accounts receivable/locally held funds, accounts payable, mailroom and field services. A similar position was previously granted 4d(3) exemption for the Administrative & Regulatory Shared Services Center.
- II. Fiscal Accounting Compliance: financial reporting, grant and cost accounting. This position will also be the liaison with the Auditor General's office. A similar position was previously granted 4d(3) exemption for the Administrative & Regulatory Shared Services Center.
- III. Fiscal Strategic Planning: purchasing and budget.

Executive Director Stralka noted that the Public Safety Shared Services Center is requesting three subordinate positions to perform these fiscal functions while the Administrative & Regulatory Shared Services Center only requested two positions. The Center's position was that it believes an additional position was

justified due to the significant grant management responsibility that Public Safety has compared to the Administrative & Regulatory, and also since the budgeting function is being included in the Public Safety fiscal function and that is not included in the Administrative & Regulatory. This position will be responsible for approximately 65 grants in excess of \$450,000,000. Executive Director Stralka also noted that the Commission has previously granted 4d(3) exemption to a position in the Illinois Department of Commerce and Economic Opportunity based on its grant administration responsibilities.

This Shared Services Center also intends to retain the current State Purchasing Officer position in the Department of Corrections, which is already 4d(3) exempt, to perform those functions for the Shared Services Center. The SSC has indicated that the creation of these positions will result in the eventual abolishment of four currently 4d(3) exempt fiscal positions in the client agencies, tentatively set for May 2008.

Even though the additional requested position was of some concern to Staff, given the reasonable explanation for the additional position and the Commission's previous approval of similar positions in the Administrative & Regulatory Shared Services Center, it is Staff's recommendation to grant these requests. Executive Director Stralka also noted the fiscal functions of the Criminal Justice Information Authority are not being integrated at this time into the SSC, but it has been represented that when this does occur, it is not anticipated that it will result in any additional 4d(3) exemption requests. Staff has conveyed to the Shared Services Center that it would be skeptical of any such additional request. Executive Director Stralka noted that Tina Neely, Transition Manager for the SSC, was present to correct or add to any of Staff comments and to respond to any questions the Commission might have.

- With regard to Item E, Executive Director Stralka indicated this request is for the Deputy Director of the Program Services for the Department of Juvenile Justice, a position that reports to the Director of the agency. Staff had some questions regarding the specific nature of the programs this position would be responsible for, and how it would interact with the already 4d(3) exempt Superintendent of School District 428 since that is one of the programs that falls under its ambit. The agency provided a list of these programs – substance abuse, mental health, sex offender, gender specific services – all of which go to the mission of the agency, as well as clarification that all educational programming will be the responsibility of the Superintendent. For these reasons, Staff recommends approval of the request.

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO GRANT THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS, NOTING THAT THE APPROVAL OF THE EXEMPTION REQUEST FOR ITEM C REFLECTS THE UNIQUE NATURE OF THE PROGRAMS PROVIDED AT THE STATEVILLE FACILITY AND IS NOT

PRECEDENT SETTING FOR THE GRANTING OF PRINCIPAL POLICY EXEMPTIONS FOR MORE THAN ONE ASSISTANT WARDEN OF OPERATIONS AND ONE ASSISTANT WARDEN OF PROGRAMS AT ANY INDIVIDUAL CORRECTIONAL CENTER:

The following 4d(3) exemption requests were granted on March 20, 2008:

C. 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-Northern Reception and Classification Center (NR&CC)
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

D1. Illinois Department of Corrections

Position Number	40070-29-40-310-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Public Safety Shared Services Center
Functional Title	Assistant Deputy Director of Fiscal Operations
Incumbent	None
Supervisor	Fiscal Deputy Director, who reports to the Director
Location	Sangamon County

D2. Illinois Department of Corrections

Position Number	40070-29-40-320-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Public Safety Shared Services Center
Functional Title	Assistant Deputy Director of Fiscal Accounting Compliance
Incumbent	None
Supervisor	Fiscal Deputy Director, who reports to the Director
Location	Sangamon County

D3. Illinois Department of Corrections

Position Number	40070-29-40-330-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Public Safety Shared Services Center
Functional Title	Assistant Deputy Director of Fiscal Strategic Planning
Incumbent	None
Supervisor	Fiscal Deputy Director, who reports to the Director
Location	Sangamon County

E. Illinois Department of Juvenile Justice

Position Number	40070-27-00-200-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Program Services
Functional Title	Deputy Director, Division of Program Services
Incumbent	None
Supervisor	Director
Location	Sangamon County

V. CLASS SPECIFICATIONS

- **None submitted.**

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, 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 COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, 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 10:05 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	1/31/08	2/29/08	2/28/07
Agriculture	1	2	2
Arts Council	1	1	1
Central Management Services	2	3	1
Children and Family Services	4	3	8
Employment Security	0	0	2
Financial and Professional Regulation	0	1	1
Healthcare and Family Services	6	16	6
Historic Preservation	1	0	1
Human Services	4	3	3
Natural Resources	7	1	3
Property Tax Appeal Board	0	0	2
Public Health	0	1	0
State Fire Marshal	0	0	1
State Retirement Systems	0	0	1
Transportation	62	70	90
Veteran's Affairs	0	1	2
Workers' Compensation Committee	0	2	0
Totals	88	104	124

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

• **DISCHARGE**

DA-21-07

Employee	Kimberly A. White	Appeal Date	1/02/07
Agency	DOC	Decision Date	3/07/08
Type	Discharge	ALJ	Barris
Charge(s)	Drug test results of urine sample were reported as: "Substituted; not consistent with normal human urine" in violation of DOC policy.	Recommended Decision	Discharge upheld.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGE FOR DISCHARGE HAS BEEN PROVEN AND DOES WARRANT DISCHARGE FOR THE REASONS SET FORTH IN THE RECOMMENDED DECISION.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

X. APPEALS TERMINATED WITHOUT DECISION ON THE MERITS

• **DISMISSED**

DA-29-08

Employee	Debra C. Blakey	Appeal Date	12/20/07
Agency	DHS	Decision Date	02/19/08
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Ineligible for temporary leave of absence when arbitrator ruled she was permanently disabled	Recommended Decision	Dismissed subject to approval of Commission; settled.

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION TO DISMISS THE APPEAL.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

March 20, 2008

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

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS AND THE MOTION ADOPTED 5-0 THAT AFTER REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO THE OPEN MEETINGS ACT, THE NEED FOR CONFIDENTIALITY STILL EXISTS AS TO ALL THOSE MINUTES.

XII. STAFF REPORT

Executive Director Stralka reported that fiscal year 2009 appropriation hearings were held with the Senate on February 27, 2008 and the House on March 5, 2008.

XIII. CONSIDERATION OF RESCHEDULING THE APRIL AND MAY 2008 MEETINGS

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER PETERSON AND THE MOTION ADOPTED 5-0 TO APPROVE THE RESCHEDULED APRIL AND MAY 2008 MEETINGS AS FOLLOWS:

- **THURSDAY, APRIL 17, 2008 IN SPRINGFIELD BEGINNING AT 10:30 A.M.**
- **FRIDAY, MAY 16, 2008 IN CHICAGO BEGINNING AT 2:00 P.M.**

XIV. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on April 17, 2008 at 10:30 a.m. in the Commission's Springfield office.

XV. MOTION TO ADJOURN

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