

April 17, 2008

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
April 17, 2008

I. OPENING OF MEETING AT 10:55 A.M. AT 400 WEST MONROE STREET, SUITE 306, SPRINGFIELD, ILLINOIS

II. PRESENT

Chris Kolker, Chairman (via telephone); Raymond W. Ewell (via telephone), Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris of the Commission staff; Anne McElroy and John Logsdon, Central Management Services; DiAna McCarter and Marlena Bordson, Department of Public Health; Grace Hou, Mike Quinlan and Jan Sampson, Department of Human Services; Brent Adams, Department of Financial and Professional Regulation; and Tim Blair, State Employees Retirement System.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD MARCH 20, 2008

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 5-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 20, 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	155.....	9
Agriculture	470.....	16
Arts Council.....	23.....	2
Capitol Development Board	36.....	0
Central Management Services	1,535.....	105
Children and Family Services.....	3,189.....	47
Civil Service Commission	4.....	0
Commerce & Economic Opportunity	414.....	67
Commerce Commission.....	69.....	0
Corrections.....	11,814.....	108
Criminal Justice Authority.....	56.....	6
Deaf and Hard of Hearing Comm.	7.....	1
Developmental Disabilities Council	9.....	1
Emergency Management Agency	96.....	2
Employment Security.....	1,637.....	25
Environmental Protection Agency	1,019.....	19
Financial & Professional Regulation	760.....	50
Guardianship and Advocacy	112.....	7
Healthcare and Family Services.....	2,396.....	29
Historic Preservation Agency	242.....	12
Human Rights Commission	9.....	2
Human Rights Department	150.....	9
Human Services	14,767.....	66
Investment Board.....	3.....	2
Juvenile Justice	1,201.....	18
Labor.....	82.....	8
Labor Relations Board Educational	13.....	2
Labor Relations Board State	21.....	2
Law Enforcement Training & Standards Bd.....	20.....	1
Medical District Commission	2.....	0
Military Affairs	123.....	3
Natural Resources	1,401.....	27
Pollution Control Board.....	20.....	3
Prisoner Review Board	22.....	0
Property Tax Appeal Board	24.....	2
Public Health.....	1,139.....	37
Revenue	2,110.....	66
State Fire Marshal	157.....	13
State Police	1,451.....	6
State Police Merit Board.....	6.....	1
State Retirement Systems	83.....	1
Transportation.....	3,675.....	0
Veterans' Affairs.....	1,118.....	6
Workers' Compensation Commission	170.....	11
TOTALS	51,810.....	792

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 this request for exemption is for the Department of Children & Family Services' Deputy Director of the Division of Guardian and Advocacy. This position reports to the Chief of Staff which would be considered the equivalent of a statutory assistant director who in turn reports to the Director.

This position is currently the only non-4d(3) exempt Deputy Director at the agency and has significant programmatic responsibilities functioning as the court appointed guardian responsible to the court for the well-being of abused or neglected minors. This individual authorizes a variety of consents that affect the minor's well-being. For these reasons, Staff recommends approval of this request.

- With regard to Item D, Executive Director Stralka noted this request is for the Policy Administrator at the Illinois Emergency Management Agency, a position that reports to the Director. This is the only policy administrator position at the agency and it has significant principal policy formulation responsibilities. In accordance with past positions granted exemption by the Commission, Staff recommends approval.
- With regard to Item E, Executive Director Stralka reported this request is for a Special Management Assistant and Senior Policy Advisor to the statutory assistant secretary for the Department of Human Services. This position functions as a high-level policy assistant for the Assistant Secretary who has programmatic responsibilities for many of the agency's core programs. Given that it is an assistant to a statutory position and the nature of the programs, Staff recommends approval of this request.
- With regard to Item F, Executive Director Stralka reported this request is for the Department of Human Services' Regional Executive Director of Region 1 North, a position formerly referred to as a Network Manager. This position reports to the Director of the Mental Health Division which would be considered the equivalent of a statutory assistant director who in turn reports to the Secretary. This is the first request of what is anticipated will be up to eight 4d(3) exemption requests for similarly situated positions due to a restructuring of the mental health hospitals.

This position will have principal policy implementing responsibilities in its geographic region of all aspects of the agency's mental health program. Each region contains at least one mental health hospital as well as other community based programs. Statewide, the Department of Human Services' mental health hospitals serve over 2000 patients and there are another 162 community agencies and 27 private psychiatric hospitals that the agency provides mental health services to in their communities. The decisions this Regional Executive Director makes are subject to reversal only by the Director of the Mental Health Division which, as indicated previously, is the equivalent of a statutory assistant director.

In addition, this superior position is the equivalent of what was previously the Director of the Department of Mental Health, an independent state agency prior to its consolidation into what is now the Department of Human Services.

Executive Director Stralka reported that one concern that arose with the restructuring leading to this request is that this removed some mental health policy implementation responsibilities from the currently exempt Bureau Chief of the Bureau of System Support. The functions that this agency is relying on to justify this exemption request which will be done on a regional level were previously the responsibility of this Bureau Chief position. However, as it has been explained to the Commission, this Bureau Chief is actually the principal policy developer for all non-hospital mental health programs on a statewide basis for the Department of Human Services. This function has been effectively delegated to it from the Director of Mental Health and the Bureau Chief has decision-making authority in this program area subject to reversal only by the Director of Mental Health, again the equivalent to a statutory assistant director. Based on this representation and given the size and nature of the mental health program, Staff did not object to the continued exemption of this position.

Another concern was that the exemption of this position would actually give the agency two 4d(3) exempt positions in the same region. Where the Commission has granted 4d(3) exemption to regional positions, it has never granted more than one per region. The agency explained that the other 4d(3) exempt position is in the Division of Human Capitol Development, a program separate and distinct from mental health. In fact, the Human Capitol Development Program performs the functions of the predecessor Department of Public Aid which was another of the independent agencies merged into the Department of Human Services. The agency also indicated that it did not anticipate requesting any additional 4d(3) exempt regional positions.

Based on the above explanation, and recognizing that this is not setting any precedent for approving more than one principal policy exempt position for any agency region, Staff recommended approval of this request.

- With regard to Item G, Executive Director Daniel Stralka noted this request is for the Residential Real Property Disclosure Program Director in the Division of Banking at the Department of Financial and Professional Regulation, a position that reports to the Director of the Division of Banking, a statutory position. This position was necessitated by an amendment to the Residential Real Property Disclosure Act which mandates the creation of a Predatory Lending Database Program designed to protect consumers from predatory lenders. Given the nature of the legislatively mandated programmatic responsibility it will have principal responsibility for, Staff recommends approval.

Commissioner Dalianis requested a brief overview of the program this position would have principal policy responsibility for. Brent Adams, General Counsel for the agency, informed the Commission that this was originally a pilot program

started for properties in seven zip codes in Cook County. It uses several criteria to identify a transaction which potentially involves a predatory lender. Once that occurs, the borrower must go through mandatory counseling before the transaction is allowed to proceed to closing. In response to a question from Commissioner Peterson, Adams indicated that the expanded program takes effect July 1, 2008 but that the person appointed to the position will be conducting public outreach until that time.

- With regard to Item H, Executive Director Daniel Stralka reported this request is for the Food Drug and Dairies' Division Chief, a position that reports to the Deputy Director of Health Protection who reports to the Director of the Illinois Department of Public Health. This position has principal responsibility for the implementation of the above described program which involves conducting food recalls and investigations and implements food safety initiatives for the school lunch programs in Illinois. It has decision-making authority on matters such as food recalls that is subject to reversal only by the Director. For these reasons, Staff recommends approval.

Commissioner Peterson inquired whether this position was involved in the recall of unhealthy beef in schools. Marlana Bordson responded that it may, but the agency works with both the Illinois State Board of Education and the Department of Agriculture on school food recalls. She noted that a new reporting system has been developed in Illinois which has already led to a nationwide recall. Commissioner Dalianis questioned whether this position was limited in scope to food safety to which Bordson responded that it is also involved in food security also with the Illinois Emergency Management Agency.

- With regard to Item I, the Illinois Department of Revenue did not make a timely response to Staff's request for additional information. For this reason, the agency agreed this item should be continued.
- With regard to Item J, Executive Director Daniel Stralka noted this request is for the State Retirement Systems' Chief Information Officer, a position which reports to the Executive Secretary of the agency. This position has principal policy responsibility for all technology and business process systems of the State Employees Retirement System as it affects all the programs administered by the agency and 4d(3) exemption would be in accordance with past decisions by the Commission. For these reasons, Staff recommends exemption.
- With regard to Item K, Executive Director Stralka noted this request is for the Chief Information officer for the Illinois Department of Veterans' Affairs. This position reports to the agency director and has principal policy responsibility for all information technology programs of the agency. Section 4d(3) exemption would be in accordance with past decisions by the Commission. For these reasons, Staff recommends exemption.

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION ADOPTED 5-0 TO GRANT AND CONTINUE THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:

The following 4d(3) exemption requests were granted on April 17, 2008:

C. Illinois Department of Children & Family Services

Position Number	40070-16-24-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Guardian and Advocacy
Functional Title	Deputy Director, Division of Guardian and Advocacy
Incumbent	D. Jean Ortega Piron
Supervisor	Chief of Staff who reports to the Director
Location	Cook County

D. Illinois Emergency Management Agency

Position Number	40070-50-17-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Administration
Functional Title	Policy Administrator
Incumbent	None
Supervisor	Director
Location	Sangamon County

E. Illinois Department of Human Services

Position Number	40070-10-12-100-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Assistant Secretary
Functional Title	Special Management Assistant & Senior Policy Advisor
Incumbent	Gregory A. Diephouse (interim appointment)
Supervisor	Assistant Secretary who reports to the Secretary
Location	Cook County

F. Illinois Department of Human Services

Position Number	40070-10-79-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Mental Health
Functional Title	Regional Executive Director, Region 1 North
Incumbent	Daniel J. Wasmer
Supervisor	Director of the Mental Health Division, who reports to the Assistant Secretary, who in turn reports to the Secretary
Location	Cook County

G. Illinois Dept. of Financial & Professional Regulation

Position Number	40070-13-10-200-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Banking
Functional Title	Residential Real Property Disclosure Program Director
Incumbent	None
Supervisor	Director of Banking Division, who reports to the Secretary
Location	Cook County

H. Illinois Department of Public Health

Position Number	40070-20-52-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Office of Health Protection
Functional Title	Food Drugs and Dairies' Division Chief
Incumbent	Marlena Bordson
Supervisor	Deputy Director of Health Protection, who reports to the Director
Location	Sangamon County

J. State Retirement Systems

Position Number	40070-50-74-000-00-03
Position Title	Senior Public Service Administrator
Bureau/Division	Data Processing
Functional Title	Chief Information Officer
Incumbent	None
Supervisor	Executive Secretary
Location	Sangamon County

K. Illinois Department of Veterans' Affairs

Position Number	40070-34-00-100-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	IT/EDP
Functional Title	Chief Information Officer
Incumbent	James E. Johnson
Supervisor	Director
Location	Sangamon County

The following 4d(3) exemption request was continued on April 17, 2008:

I. Illinois Department of Revenue

Position Number	40070-25-07-210-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Legal Services
Functional Title	Deputy General Counsel-Litigation
Incumbent	None
Supervisor	General Counsel who reports to the Director
Location	Cook County

V. CLASS SPECIFICATIONS

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

A. Position Title: Occupational Therapist Supervisor (new)

Analysis: Assistant Executive Director Andrew Barris reported that effective June 19, 2006 the State Labor Relations Board ruled that the positions in the Public Service Administrator (PSA) Option 80 should be subject to collective bargaining and they certified the PSA Option 80's as being included in RC-063. The last paragraph of the Distinguishing Features of the PSA includes the following statement: 'Excluded from this class are...as well as those subject to the provisions of collective bargaining contracts.' In keeping with this statement, the new class of Occupational Therapist Supervisor has been created to perform the duties of the positions formerly classified as PSA Option 80. In addition, as the new class is in an AFSCME bargaining unit, the positions can no longer serve as full time supervisors of other AFSCME bargaining unit positions. Per Article V, Section 2 of the master contractual agreement between AFSCME and the State of Illinois: "The employee and/or the Union shall orally raise the grievance with the employee's supervisor who is outside the bargaining unit." Accordingly, positions in this class serve as working supervisors and cannot perform disciplinary functions or resolve grievances.

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John Logsdon of Central Management Services was present at the meeting and responded to questions from Chairman Kolker regarding the duties of supervisors under the collective bargaining agreement and the potential for future supervisory positions being included in a collective bargaining agreement. Logsdon stated that the defining duty that would preclude a supervisory position from collective bargaining per the State Labor Relations Board was if the position had disciplinary authority. Logsdon reiterated that the AFSCME contract governed the present position, but that he was also aware that the ISEA petitioned the Labor Relations Board for the Public Service Administrator, Option 7 to become a position included in its collective bargaining agreement. Logsdon acknowledged the possibility that more PSA positions might fall under collective bargaining agreements in the future.

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

Occupational Therapist Supervisor (new)

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER BUKRABA, 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 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		

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VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 400 West Monroe Street, Suite 306, Springfield, Illinois at 11:30 a.m.

PRESENT

Chris Kolker, Chairman (via telephone); Raymond W. Ewell (via telephone), 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	2/29/08	3/31/08	3/31/07
Agriculture	2	2	1
Arts Council	1	1	1
Central Management Services	3	3	1
Children and Family Services	3	4	7
Commerce and Economic Opportunity	0	0	1
Employment Security	0	0	2
Financial and Professional Regulation	1	1	1
Healthcare and Family Services	16	15	3
Historic Preservation	0	0	1
Human Services	3	6	2
Natural Resources	1	1	1
Property Tax Appeal Board	0	0	2
Public Health	1	0	0
State Police	0	1	0
State Retirement Systems	0	0	2
Transportation	70	53	57
Veteran's Affairs	1	0	1
Workers' Compensation Committee	2	0	0
Totals	104	87	83

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IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

• **DISCHARGE**

DA-27-08

Employee	Shawn L. Young	Appeal Date	12/13/07
Agency	DHS	Decision Date	04/04/08
Type	Discharge	ALJ	Barris
Charge(s)	Probationary employee	Recommended Decision	Motion to Dismiss is granted; no jurisdiction.

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 GRANT THE MOTION TO DISMISS BECAUSE THE EMPLOYEE DID NOT COMPLETE THE NECESSARY SIX MONTH PROBATIONARY PERIOD TO ACHIEVE THE STATUS OF A CERTIFIED EMPLOYEE SUBJECT TO JURISDICTION B. THEREFORE, THE COMMISSION HAS NO JURISDICTION OVER THIS MATTER AND THE APPEAL IS DISMISSED.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

X. APPEALS TERMINATED WITHOUT DECISION ON THE MERITS

• **DISMISSED**

DA-33-08

Employee	Shameeka Adams	Appeal Date	2/11/08
Agency	DHS	Decision Date	3/31/08
Type	Discharge	ALJ	Stralka
Charge(s)	Tardiness	Recommended Decision	Dismissed subject to approval of Commission; default (no show at hearing).

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- **DISMISSED**

S-36-08

Employee	Edward Emerson	Appeal Date	3/14/08
Agency	DOC	Decision Date	3/31/08
Type	Suspension	ALJ	Stralka
Charge(s)	Unauthorized absence	Recommended Decision	Dismissed subject to approval of Commission; withdrawn.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISIONS TO DISMISS THE ADAMS AND EMERSON APPEALS.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

XI. STAFF REPORT

Executive Director Stralka reported that

- Mileage Reimbursement will increase from \$.0485/mile to \$.505/mile effective on July 1, 2008.
- Statement of Economic Interest forms are due May 1, 2008.
- Benefit Choice will be May 1-31, 2008. Any elections made during this period will be effective July 1. However, a second Benefit Choice will also be held at a later date once contract negotiations are completed. Members will also have the opportunity to make elections during the second period.

At the suggestion of Commissioner Dalianis, there was general discussion about creating an annual award to be bestowed by the Civil Service Commission.

XII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on Friday, May 16, 2008 at 2:00 p.m. in the Commission's Chicago office.

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XIII. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 11:35 A.M.