

May 17, 2007

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
May 17, 2007

I. OPENING OF MEETING AT 10:55 A.M. AT 425 ½ SOUTH FOURTH STREET,
SPRINGFIELD, 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; Administrative Law Judge Anthony E. Dos Santos; Anne McElroy, John Logsdon, Mark Magill, Brenda Montgomery from Central Management Services; and Doug Mathis from Department of Children and Family Services.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD APRIL 19, 2007

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL AND THE MOTION ADOPTED 5-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 19, 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	151.....	9
Agriculture	466.....	17
Arts Council.....	22.....	2
Capitol Development Board	32.....	0
Central Management Services	1,587.....	111
Children and Family Services.....	3,304.....	41
Civil Service Commission	4.....	0
Commerce & Economic Opportunity	426.....	64
Commerce Commission.....	52.....	0
Corrections.....	12,308.....	101
Criminal Justice Authority.....	63.....	6
Deaf and Hard of Hearing Comm.	6.....	1
Developmental Disabilities Council	10.....	1
Emergency Management Agency	105.....	1
Employment Security.....	1,691.....	26
Environmental Protection Agency	1,064.....	18
Financial & Professional Regulation	786.....	42
Guardianship and Advocacy	112.....	7
Healthcare and Family Services.....	2,380.....	29
Historic Preservation Agency	280.....	11
Human Rights Commission	9.....	2
Human Rights Department	140.....	8
Human Services	14,560.....	66
Investment Board.....	4.....	2
Juvenile Justice	1,285.....	18
Labor.....	71.....	8
Labor Relations Board Educational	14.....	2
Labor Relations Board Local	1.....	0
Labor Relations Board State	19.....	2
Law Enforcement Training & Standards Bd.....	20.....	1
Medical District Commission	2.....	0
Military Affairs	141.....	3
Natural Resources	1,450.....	27
Pollution Control Board.....	26.....	3
Prisoner Review Board	22.....	0
Property Tax Appeal Board	26.....	2
Public Health.....	1,095.....	35
Revenue	2,053.....	63
State Fire Marshal.....	158.....	11
State Police	1,475.....	6
State Police Merit Board.....	5.....	1
State Retirement Systems	81.....	1
Transportation.....	2,745.....	1
Veterans' Affairs.....	1,171.....	5
Workers' Compensation Commission	174.....	11
TOTALS.....	51,596.....	765

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 staff had recommended denial of this request due to overlap with an existing position at the Department of Financial Institutions. The Agency asked for this request to be withdrawn.
- With regard to Item D, Executive Director Daniel Stralka reported that this position reports to the Director, and is the principal policy formulator in the area of clean technologies for the Illinois Environmental Protection Agency. The necessity for this position has its roots in the FutureGen project for which Illinois is competing with Texas. This represents something of a policy change at Illinois Environmental Protection Agency and the only concern with overlap was with a Chief Policy Advisor. However, the Chief Policy Advisor position will retain its policy focus in the traditional Land, Water and Air while the new position will have its policy focus on the clean technology initiatives such as FutureGen which spread across all three of these traditional areas. For these reasons, staff recommends approval.
- With regard to Item E, Executive Director Daniel Stralka reported that this position reports to the Director and is the principal policy formulator for the Emergency Reception Center/Shelter System Program, a long-standing major program of the agency. It is being removed from the purview of the Deputy Director for Child Protection in a minor reorganizational move since it crosses other program areas of the agency. For these reasons, staff recommends approval.
- With regard to Item F, Executive Director Daniel Stralka reported that staff recommends this request be continued to address some overlap issues.
- With regard to Item G, Executive Director Daniel Stralka reported this position has principal policy responsibility for the Office of Urban Assistance, a program defined by statute, and it reports to the Director. The need to re-establish this position was mandated by an audit finding against the agency at its last audit since it was legislatively mandated but not filled. For these reasons, staff recommends approval.
- With regard to Item H, Executive Director Daniel Stralka reported this position reports to the Director and is administratively responsible for the Informal Conference Board, a program defined by statute. This would bring the program within the technical standards of the Commission Rules for exemption approval. However, staff does not feel that it qualifies for principal policy exemption as it appears the program is more a step in the pre-assessment of tax liability process. Regardless of what the Informal Conference Board determines, taxpayers have the right to a more formal hearing/appeal process, which is administered by a currently 4d(3) exempt employee. Staff invited the agency to send a

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representative to the May 17, 2007 meeting but the agency felt the incumbent (located in Chicago) was the best representative. For these reasons, staff recommends this request be denied.

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 May 17, 2007:

D. Illinois Environmental Protection Agency

Position Number	40070-46-00-000-00-04
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Assistant to the Director/Policy Advisor
Incumbent	None
Supervisor	Director
Location	Cook County

E. Illinois Department of Children and Family Services

Position Number	37015-16-00-000-70-01
Position Title	Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Emergency Reception Center (ERC) Program Coordinator
Incumbent	None
Supervisor	Director
Location	Cook County

G. Illinois Department of Commerce and Economic Opportunity

Position Number	37015-42-00-030-00-01
Position Title	Public Service Administrator
Bureau/Division	Office of Urban Assistance
Functional Title	Managing Director, Office of Urban Assistance
Incumbent	None
Supervisor	Director
Location	Cook County

The following 4d(3) exemption request was continued on May 17, 2007:

F. Illinois Department of Children and Family Services

Position Number	40070-16-00-800-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Executive Deputy Director
Incumbent	None
Supervisor	Director
Location	Cook County

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER PETERSON AND THE MOTION ADOPTED 5-0 TO CONTINUE THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION:

The following 4d(3) exemption request was continued on May 17, 2007:

H. Illinois Department of Revenue

Position Number	40070-25-25-200-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Informal Conference Board
Functional Title	Administrator, Informal Conference Board
Incumbent	Louise M. Calvert
Supervisor	Director
Location	Cook County

V. CLASS SPECIFICATIONS

- **None submitted.**

IT WAS MOVED BY CHAIRMAN KOLKER, 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.

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VI. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY COMMISSIONER DALIANIS, 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), 2(c)(5), 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 425 ½ South Fourth Street, Springfield, Illinois at 1:50 p.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	3/31/07	4/30/07	4/30/06
Agriculture	1	1	8
Arts Council	1	0	1
Central Management Services	1	6	3
Children and Family Services	7	7	10
Commerce and Economic Opportunity	1	1	2
Employment Security	2	2	0
Financial and Professional Regulation	1	1	1
Healthcare and Family Services	3	3	10
Historic Preservation	1	4	0
Human Services	2	3	2
Natural Resources	1	4	21
Property Tax Appeal Board	2	2	1
State Retirement Systems	2	2	0
Transportation	57	25	27
Veterans' Affairs	1	2	2
<u>Totals</u>	83	63	88

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

- CONSOLIDATED DISCHARGE APPEALS

DA-38-06 and DA-39-06

Employee Names	Dawn DeFraties Michael J. Casey II	Appeal Date	4/19/06
Agencies	Healthcare & Family Services Historic Preservation	Decision Date	5/04/07
Type	Discharge	ALJ	Anthony Dos Santos
Charge(s)	1) Insubordination for refusal to cooperate with OEIG investigation and 2) knowingly allowed and pressured staff to give special applicants an "A" grade or change a previously graded application to an "A" grade; knowingly allowed and ordered staff to award "A" grades to certain individual employment applications that would not have received an "A" grade had they utilized the applicable grading scales and to grade certain applications submitted for closed job titles; knowingly allowed and ordered staff to process certain individual CMS employment applications before other applicants, allowing them to receive special and favorable treatment; knowingly allowed and ordered staff to grade certain individual employment applications and not enter the grade or applicant's information into the PEERS system pursuant to the standard required procedure; knowingly allowed and ordered staff to process certain employment applications received by fax rather than by US Mail or other standard procedures, making fax applicants of their choice more likely to get state jobs; knowingly allowed and ordered staff to input certain individual grades into the PEERS system ahead of the other applications for regular applicants, allowing for special or favorable treatment	Recommended Decision	Charges partially proven and warrant 14-day suspension in lieu of discharge

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER PETERSON AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO REMAND THE APPEAL TO THE ADMINISTRATIVE LAW JUDGE FOR THE PURPOSE OF TAKING ADDITIONAL EVIDENCE.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

- **SUSPENSION APPEAL**

S-25-07

Employee	Christina M. Cole	Appeal Date	1/16/07
Agency	DOC	Decision Date	5/04/07
Type	Suspension	ALJ	Andrew Barris
Charge(s)	Failure to report discriminatory/harassing behavior in a timely manner	Recommended Decision	Charges proven but warrant a written warning in lieu of 11-day suspension.

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 THAT THE WRITTEN CHARGES FOR SUSPENSION APPROVED BY THE DIRECTOR OF THE DEPARTMENT OF CENTRAL MANAGEMENT SERVICES, STATE OF ILLINOIS, HAVE BEEN PROVED, BUT THE UNIQUE FACTUAL CIRCUMSTANCES SURROUNDING THE DISCIPLINE DO NOT RISE TO THE LEVEL WHICH SOUND PUBLIC OPINION RECOGNIZES AS GOOD CAUSE WARRANTING THE IMPOSITION OF AN 11-DAY SUSPENSION. SAID CHARGES WARRANT A WRITTEN WARNING. THE COMMISSION NOTES THAT EMPLOYEES HAVE A RESPONSIBILITY TO FILE INCIDENT REPORTS PROMPTLY SO MANAGEMENT IS TIMELY MADE AWARE OF POTENTIAL PROBLEMS AND CAN IMPLEMENT CORRECTIVE MEASURES IF NEEDED.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

- **ALLOCATION APPEAL**

AA-15-07

Petitioner	Dana Smith	Appeal Date	12/04/06
Agency	CMS	Decision Date	04/25/07
Type	Allocation	ALJ	Andrew Barris
Charge(s)	Position should be allocated to Executive Secretary III instead of Executive Secretary I	Proposed Finding	The Petitioner did not prove that her position classification was improperly allocated.

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 PROPOSED FINDING THAT THE PETITIONER DID NOT PROVE THAT HER POSITION CLASSIFICATION WAS IMPROPERLY ALLOCATED.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

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

- **WITHDRAWN**

DA-28-07

Employee	Donald E. Allen, Jr.	Appeal Date	2/05/07
Agency	DOC	Decision Date	4/25/07
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Unauthorized absences	Recommended Decision	Dismissed subject to Commission approval; withdrawn (settlement).

- **DISMISSAL**

DA-32-07

Employee	Byford J. Miller	Appeal Date	3/16/07
Agency	DHS	Decision Date	4/27/07
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Conduct unbecoming a State employee	Recommended Decision	Dismissed subject to Commission approval; default (no show at hearing).

- **WITHDRAWN**

DA-38-07

Employee	Kimberly Bishop	Appeal Date	4/24/07
Agency	DCFS	Decision Date	5/08/07
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Probationary discharge	Recommended Decision	Dismissed subject to Commission approval; withdrawn.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY CHAIRMAN KOLKER, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO APPROVE AND ADOPT THE DISMISSALS OF THE ALLEN APPEAL, THE MILLER APPEAL AND THE BISHOP APPEAL.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

XI. **STAFF REPORT**

Executive Director Daniel Stralka reported that:

- The Commission received the Governor's Cup for 2006 awarded to the agency with the highest percentage of participation in the SECA campaign.
- There has been no progress in obtaining the supplemental funds requested for the Fiscal Year 2007 budget.
- Sandra Guppy has drafted updated performance measures and met with Executive Director Stralka to discuss them.
- Tentative moving day for the Commission's Springfield office is Monday, July 2.

XII. **AUTHORIZATION FOR EXECUTIVE DIRECTOR TO EXECUTE LEASE AND RELATED DOCUMENTS FOR SPRINGFIELD OFFICE SPACE**

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER BUKRABA, AND BY VOTE OF 5-0 THE MOTION ADOPTED TO AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE THE LEASE AND RELATED DOCUMENTS FOR THE SPRINGFIELD OFFICE SPACE.

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XIII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on June 21, 2007 at 9:00 a.m. in the Commission's Chicago office.

XIV. MOTION TO ADJOURN

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 1:55 PM.