

May 16, 2008

MINUTES  
ILLINOIS CIVIL SERVICE COMMISSION  
May 16, 2008

I. OPENING OF MEETING AT 2:14 P.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; Jan Oncken, Central Management Services; Robin Tucker-Smith and Tom Hughes, Department of Public Health; and Helen Jett, Department of Human Rights.

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

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 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 .....                                  | 158.....               | 9                                 |
| Agriculture .....                            | 464.....               | 16                                |
| Arts Council.....                            | 23.....                | 2                                 |
| Capitol Development Board .....              | 36.....                | 0                                 |
| Central Management Services .....            | 1,527.....             | 106                               |
| Children and Family Services.....            | 3,194.....             | 47                                |
| Civil Service Commission .....               | 4.....                 | 0                                 |
| Commerce & Economic Opportunity .....        | 414.....               | 67                                |
| Commerce Commission.....                     | 69.....                | 0                                 |
| Corrections.....                             | 11,778.....            | 109                               |
| Criminal Justice Authority.....              | 55.....                | 6                                 |
| Deaf and Hard of Hearing Comm. ....          | 6.....                 | 1                                 |
| Developmental Disabilities Council .....     | 9.....                 | 1                                 |
| Emergency Management Agency .....            | 94.....                | 2                                 |
| Employment Security.....                     | 1,640.....             | 24                                |
| Environmental Protection Agency .....        | 1,010.....             | 19                                |
| Financial & Professional Regulation .....    | 763.....               | 49                                |
| Guardianship and Advocacy .....              | 111.....               | 7                                 |
| Healthcare and Family Services.....          | 2,417.....             | 29                                |
| Historic Preservation Agency .....           | 240.....               | 12                                |
| Human Rights Commission .....                | 12.....                | 2                                 |
| Human Rights Department .....                | 149.....               | 9                                 |
| Human Services .....                         | 14,815.....            | 66                                |
| Investment Board.....                        | 3.....                 | 2                                 |
| Juvenile Justice .....                       | 1,198.....             | 18                                |
| Labor.....                                   | 82.....                | 7                                 |
| 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 .....                       | 124.....               | 3                                 |
| Natural Resources .....                      | 1,397.....             | 22                                |
| Pollution Control Board.....                 | 20.....                | 2                                 |
| Prisoner Review Board .....                  | 22.....                | 0                                 |
| Property Tax Appeal Board .....              | 26.....                | 1                                 |
| Public Health.....                           | 1,136.....             | 38                                |
| Revenue .....                                | 2,109.....             | 66                                |
| State Fire Marshal .....                     | 159.....               | 13                                |
| State Police .....                           | 1,444.....             | 6                                 |
| State Police Merit Board.....                | 6.....                 | 1                                 |
| State Retirement Systems .....               | 83.....                | 1                                 |
| Transportation.....                          | 2,575.....             | 0                                 |
| Veterans' Affairs.....                       | 1,135.....             | 6                                 |
| Workers' Compensation Commission .....       | 165.....               | 10                                |
| TOTALS .....                                 | 50,728.....            | 784                               |

**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 Deputy General Counsel for Litigation in the Department of Revenue, a position that reports to the General Counsel who reports to the Director. After having had initial discussions with the agency regarding this request, the General Counsel indicated that he is pursuing a reorganization of his Division. Rather than hear this request isolated from similarly situated positions in that Division, it was agreed to continue this request so that any additional 4d(3) exemption requests can be considered simultaneously
- With regard to Item D, Executive Director Stralka noted this request is for the Director of Policy and Training at the Illinois Guardianship and Advocacy Commission, a position that reports to the Director. As the title indicates, this position has principal responsibility for the development and determination of Commission policy on programs that go to the heart of the agency's mission such as community integration and placement. It has significant authority to act in the capacity of the Director to bind the agency as well as plays a significant role in the planning and programming of Commission activities. There are no other dedicated policy positions at the Illinois Guardianship and Advocacy Commission. For these reasons, Staff recommended approval.
- With regard to Item E, Executive Director Stralka reported this request is for the Chief Litigation Attorney for the Illinois Department of Human Rights, a position that reports to the Chief Legal Counsel which would be considered the equivalent of a statutory assistant director who reports to the Director. This position has principal policy responsibility for the management of all agency litigation, including that before the Human Rights Commission both on behalf of complainants and defending the agency in appeals, where the agency found that there was a lack of substantial evidence that discrimination occurred. This position possesses significant independent authority to bind the agency to a course of action in such litigation including the authority to make, reject, or accept settlement proposals. This position is the only other one in the Legal Division for which the agency is or will be seeking 4d(3) exemption. For these reasons, Staff recommended approval. Helen Jett, Deputy Director of the Illinois Department of Human Rights, was present to add to or correct the above presentation or respond to any questions.
- With regard to Item F, Executive Director Stralka reported this request is for the Infectious Diseases Division Chief in the Department of Public Health, a position that reports to the Deputy Director of Health Protection which would be considered the equivalent of a statutory assistant director who reports to the Director. This position has principal responsibility for the implementation of the above described program which includes representing the Director on related advisory committees and recognizing and coordinating the agency's response to outbreaks of potentially infectious diseases. It has decision-making authority on matters such as deploying the agency's rapid response team in such situations.

For these reasons, Staff recommended approval. Tom Hughes, Deputy Director, Office of Health Protection, was present to add to or correct the above presentation or respond to any questions. He indicated that this is one of four positions under him that would be principal policy exempt, all of which are first responders to health related emergencies in the State.

- With regard to Item G, Executive Director Daniel Stralka noted this request is for the Environmental Health Division Chief in the Department of Public Health, a position that reports to the Deputy Director of Health Protection which would be considered the equivalent of a statutory assistant director who reports to the Director. This position has principal responsibility for the implementation of the above described program which includes representing the Director on related advisory committees and coordinating the agency's response to potential environmental health emergencies due to hazardous substances. This position has the independent authority to close facilities such as schools and swimming pools to prevent exposure to hazardous agents. For these reasons, staff recommended approval. Tom Hughes, Deputy Director, Office of Health Protection, was present to add to or correct the above presentation or respond to any questions. He indicated that this position requires a candidate who is a licensed health practitioner. It addresses significant health related emergency situations such as asbestos exposure in schools and groundwater contamination issues.
- With regard to Item H-J, Executive Director Daniel Stralka reported these requests are for the Projects Director, Projects Communication Manager, and Risk Assessment Project Manager for the Administrative and Regulatory Shared Services Center. As Staff has not had an opportunity to adequately review these requests, it was agreed that these would be continued to the June meeting.

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER BUKRABA, 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 16, 2008:**

**D. Illinois Department of Guardianship & Advocacy Commission**

|                  |                                     |
|------------------|-------------------------------------|
| Position Number  | 40070-50-70-080-11-02               |
| Position Title   | Senior Public Service Administrator |
| Bureau/Division  | Administration                      |
| Functional Title | Director of Policy and Training     |
| Incumbent        | None                                |
| Supervisor       | Director                            |
| Location         | Cook County                         |

**E. Illinois Department of Human Rights**

|                  |   |
|------------------|---|
| Position Number  | 40070-49-50-100-20-01                                       |
| Position Title   | Senior Public Service Administrator                         |
| Bureau/Division  | Legal   |
| Functional Title | Assistant Chief Legal Counsel and Chief Litigation Attorney |
| Incumbent        | Michael I. Lieberman  |
| Supervisor       | Chief Legal Counsel who reports to Director                 |
| Location         | Sangamon County   |

**F. Illinois Department of Public Health**

|                  |  |
|------------------|--|
| Position Number  | 40070-20-51-000-00-01  |
| Position Title   | Senior Public Service Administrator                              |
| Bureau/Division  | Office of Health Protection                                      |
| Functional Title | Chief, Infectious Diseases Division                              |
| Incumbent        | None   |
| Supervisor       | Deputy Director of Health Protection who reports to the Director |
| Location         | Sangamon County  |

**G. Illinois Department of Public Health**

|                  |  |
|------------------|--|
| Position Number  | 40070-20-53-000-00-01  |
| Position Title   | Senior Public Service Administrator                              |
| Bureau/Division  | Office of Health Protection                                      |
| Functional Title | Chief, Environmental Health Division                             |
| Incumbent        | None   |
| Supervisor       | Deputy Director of Health Protection who reports to the Director |
| Location         | Sangamon County  |

**The following 4d(3) exemption requests were continued on May 16, 2008:**

**C. 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                                 |

**H. Illinois Department of Revenue**

|                  |  |
|------------------|--|
| Position Number  | 40070-25-12-400-00-01                                    |
| Position Title   | Senior Public Service Administrator                      |
| Bureau/Division  | Administrative & Regulatory (A&R) Shared Services Center |
| Functional Title | Projects Director  |
| Incumbent        | None   |
| Supervisor       | Director of the A&R Shared Services Center               |
| Location         | Sangamon County  |

**I. Illinois Department of Revenue**

|                  |  |
|------------------|--|
| Position Number  | 40070-25-12-410-00-01  |
| Position Title   | Senior Public Service Administrator  |
| Bureau/Division  | Administrative & Regulatory (A&R) Shared Services Center   |
| Functional Title | Project Communications Manager   |
| Incumbent        | None   |
| Supervisor       | A&R Shared Services Center Project Director, who reports to the Director of the A&R Shared Services Center |
| Location         | Sangamon County  |

**J. Illinois Department of Revenue**

|                  |  |
|------------------|--|
| Position Number  | 40070-25-12-420-00-01  |
| Position Title   | Senior Public Service Administrator  |
| Bureau/Division  | Administrative & Regulatory (A&R) Shared Services Center   |
| Functional Title | Risk Assessment Project Manager  |
| Incumbent        | None   |
| Supervisor       | A&R Shared Services Center Project Director, who reports to the Director of the A&R Shared Services Center |
| 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.**

May 16, 2008

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.**

|                 |            |                 |            |
|-----------------|------------|-----------------|------------|
| <b>KOLKER</b>   | <b>YES</b> | <b>EWELL</b>    | <b>YES</b> |
| <b>PETERSON</b> | <b>YES</b> | <b>DALIANIS</b> | <b>YES</b> |
| <b>BUKRABA</b>  | <b>YES</b> |                 |            |

May 16, 2008

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 2:52 p.m.

PRESENT

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

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.

| <b>Agency</b>                         | 3/31/08 | <b>4/30/08</b> | 4/30/07 |
|---------------------------------------|---------|----------------|---------|
| Agriculture                           | 2       | <b>2</b>       | 1       |
| Arts Council                          | 1       | <b>1</b>       | 0       |
| Central Management Services           | 3       | <b>5</b>       | 6       |
| Children and Family Services          | 4       | <b>5</b>       | 7       |
| Commerce and Economic Opportunity     | 0       | <b>0</b>       | 1       |
| Employment Security                   | 0       | <b>1</b>       | 2       |
| Financial and Professional Regulation | 1       | <b>1</b>       | 1       |
| Healthcare and Family Services        | 15      | <b>16</b>      | 3       |
| Historic Preservation                 | 0       | <b>0</b>       | 4       |
| Human Services                        | 6       | <b>6</b>       | 3       |
| Natural Resources                     | 1       | <b>0</b>       | 4       |
| Property Tax Appeal Board             | 0       | <b>1</b>       | 2       |
| Public Health                         | 0       | <b>0</b>       | 0       |
| State Police                          | 1       | <b>1</b>       | 0       |
| State Retirement Systems              | 0       | <b>0</b>       | 2       |
| Transportation                        | 53      | <b>5</b>       | 25      |
| Veteran's Affairs                     | 0       | <b>1</b>       | 2       |
| <b>Totals</b>                         | 87      | <b>45</b>      | 63      |

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

- **DISCHARGE**

**DA-14-08**

|           |   |                      |  |
|-----------|---|----------------------|--|
| Employee  | Matthew Magalis   | Appeal Date          | 10/29/07   |
| Agency    | DHS   | Decision Date        | 05/01/08   |
| Type      | Discharge   | ALJ                  | Daniel Stralka   |
| Charge(s) | Violated the confidentiality provision of Ethics Act; violated press communication policy and the keys/lock policy; theft of state property; and conduct unbecoming | Recommended Decision | Charges are partially proven and do warrant discharge. |

**IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION (MODIFIED TO REFLECT THAT IN THE LAST SENTENCE OF PARAGRAPH 27 OF THE CONCLUSIONS OF LAW, THE WORD “MAGALIS” IS TO REPLACE THE WORD “SHALABI’S”). TO CLARIFY THE FINDINGS OF FACT IT WAS DETERMINED THAT THE RESPONDENT SURREPTITIOUSLY ACQUIRED THE KEY TO THE LOCKED FILE CABINET WHERE THE CONFIDENTIAL OFFICE OF EXECUTIVE INSPECTOR GENERAL FINAL REPORT WAS KEPT IN AN ENVELOPE CLEARLY STAMPED “CONFIDENTIAL” IN RED. HE TOOK THE REPORT AND COPIED IT BEFORE RETURNING IT TO THE FILE CABINET SO NO ONE WOULD KNOW OF HIS ACTIONS. KNOWING THAT HE WAS IN POSSESSION OF A CONFIDENTIAL DOCUMENT, HE PROCEEDED TO VIOLATE THE CONFIDENTIALITY BY PROVIDING A COPY TO HIS ATTORNEY AND A NEWSPAPER. HE WAS NOT AUTHORIZED TO TAKE ANY OF THESE ACTIONS, NEVER SOUGHT AUTHORIZATION FOR ANY OF THESE ACTIONS NOR DID HE NOTIFY ANYONE AT THE DEPARTMENT OF HUMAN SERVICES OF WHAT HE HAD DONE. IT WAS ALSO FOUND THAT MAGALIS WAS NOT ACTING IN THE CAPACITY OF AN AGENCY EMPLOYEE WHEN HE TRANSMITTED THE REPORT TO THE NEWSPAPER.**

**IT WAS DETERMINED THAT THE WRITTEN CHARGES FOR DISCHARGE HAVE BEEN PARTIALLY PROVEN, AND DO WARRANT DISCHARGE FOR THE REASONS SET FORTH IN THE RECOMMENDED DECISION INCLUDING THE SERIOUSNESS OF THE CHARGES, THE DECEITFUL NATURE OF HIS CONDUCT, THE KNOWING VIOLATION OF AGENCY RULES AND THE STATUTORY CONFIDENTIALITY AFFORDED THE REPORT, THE CHILLING EFFECT HIS MISCONDUCT MAY HAVE ON POTENTIAL COMPLAINANTS UNDER THE STATE OFFICIALS AND EMPLOYEES ETHICS ACT, AND THE DISRUPTION TO THE AGENCY.**

**DISCHARGE IS WARRANTED DESPITE HIS PERFORMANCE RECORD, LACK OF PRIOR DISCIPLINE AND 14 YEARS OF CONTINUOUS SERVICE. IN ADDITION, ANY ONE OF THE PROVEN CHARGES STANDING ALONE IS SUFFICIENT TO WARRANT THE DISCHARGE OF THE RESPONDENT.**

**THE MOTION TO STRIKE OR DISREGARD MAGALIS' IMPROPER ASSERTIONS UNSUPPORTED BY THE RECORD OR WHICH HAVE BEEN WAIVED, DATED MAY 15, 2008, ALTHOUGH NOT DETERMINATIVE, IS GRANTED TO THE EXTENT MAGALIS' OBJECTION TO RECOMMENDED DECISION REFERS TO MATTERS NOT IN THE RECORD OR OFFICIALLY NOTED.**

|                 |            |                 |            |
|-----------------|------------|-----------------|------------|
| <b>KOLKER</b>   | <b>YES</b> | <b>EWELL</b>    | <b>YES</b> |
| <b>PETERSON</b> | <b>YES</b> | <b>DALIANIS</b> | <b>YES</b> |
| <b>BUKRABA</b>  | <b>YES</b> |                 |            |

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

**• DISMISSED**

**DA-34-08**

|           |   |                      |  |
|-----------|---|----------------------|--|
| Employee  | Kent Schafer  | Appeal Date          | 2/27/08                                  |
| Agency    | Deaf and Hard of Hearing Commission                             | Decision Date        | 5/02/08                                  |
| Type      | Discharge   | ALJ                  | Andrew Barris                            |
| Charge(s) | Not applicable; employee was a trainee/intern and not certified | Recommended Decision | Dismissed; default (no show at hearing). |

**DA-37-08**

|           |                       |                      |                              |
|-----------|-----------------------|----------------------|------------------------------|
| Employee  | Eloise V. Harnett     | Appeal Date          | 3/20/08                      |
| Agency    | DHS                   | Decision Date        | 4/09/08                      |
| Type      | Discharge             | ALJ                  | Daniel Stralka               |
| Charge(s) | Unauthorized absences | Recommended Decision | Dismissed; appeal withdrawn. |

**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 JUDGES' RECOMMENDED DECISIONS TO DISMISS THE SCHAFER AND HARNETT APPEALS.**

|                 |            |                 |            |
|-----------------|------------|-----------------|------------|
| <b>KOLKER</b>   | <b>YES</b> | <b>EWELL</b>    | <b>YES</b> |
| <b>PETERSON</b> | <b>YES</b> | <b>DALIANIS</b> | <b>YES</b> |
| <b>BUKRABA</b>  | <b>YES</b> |                 |            |

XI. REPORT ON THE APPLICATION OF SECTION 4c(6) OF THE PERSONNEL CODE

Executive Director Daniel Stralka reported that recently, the Commission received an inquiry regarding the extent of the general exemption under Section 4c(6) of the Personnel Code. Since initial research was unable to authoritatively resolve the inquiry, additional research was conducted which prompted this report presented to the Commission.

Section 4 of the Personnel Code establishes that all positions of employment in the State are subject to the Personnel Code unless otherwise exempted. Section 4c provides for general and total exemption from the Personnel Code for a variety of positions by class. Section 4c(6) identifies one class of those positions being:

“All employees of the Governor at the executive mansion and on his immediate personal staff.”

The inquiry that arose involved an interpretation of the extent of this general exemption.

Initial research found no definitive guidance on this matter. This general exemption was included in the original 1957 Personnel Code. Prior to that, positions in the executive mansion and the Governor’s “private secretary and stenographer” as well as “clerks, watchmen and policemen” employed by the Governor were exempt from the classified Civil Service. Unfortunately, records as to any legislative debate on this provision were unavailable. No case law on this provision was discovered. Anecdotal inquiries to long-term employees at CMS and past employees of the Commission such as Harry Schnirring – who was employed when the Personnel Code took effect – and past Executive Secretary Bruce Finne shed no additional light on the topic.

The next step was to review the historical interpretation through the years. With charts provided to the Commission from the Governor’s Office, staff was able to review headcount numbers for positions on the Governor’s payroll from 1961 forward. From as best as could be determined, there were 30 positions budgeted for the Governor’s payroll in 1961. It was noted that an assumption being made here is that positions on the Governor’s payrolls were all treated as exempt from the Personnel Code under Section 4c(6) as they are presently and have been for the past few administrations, at a minimum. Of these 30 positions, seven were clearly attributable to the executive mansion staff. The remaining 23 had titles that point to functions that are responsible for government administration – Clerks, Secretaries, Administrative Assistants, and Assistants to the Governor.

Over the years, the Governor’s payroll grew to a high of 182 positions in 1991. From these 182, 15 were clearly attributable to the executive mansion staff. The rest included a variety of administrative titles such as Administrative Assistant (27), Office Staff (27), Secretaries (24), Senior Staff (11) and Executive Assistant (50). Presently, there are 99 positions on the Governor’s payroll. Of those, eight are attributable to the executive mansion staff.

Of the remaining 91, they include a variety of titles such as Deputy Governor, Chief Operating Officer, Chief Legal Counsel and Senior Policy Advisors as well as Receptionists and Administrative Assistants. After a review of the organizational charts that display the assignment of these positions, it is clear that they all have been assigned to functions within the Governor's Office. None are serving Code agencies in positions that would more properly be classified as Code-covered.

Of importance is that the general exemption for the "immediate personal staff" of the Governor has clearly not been limited over the past decades to simply his private secretary and scheduler, but has included a variety of administrators performing numerous functions as determined by the Governor from time to time. Courts have found that long-continued interpretations of statutes such as this with legislative acquiescence to be highly persuasive of statutory intent. The long accepted interpretation appears to be that the limiting language of "immediate personal staff" was not intended to overly restrict these positions to those that attend to his "body" as the word "personal" can be defined. Rather, this phrase more likely refers to those positions whose functions mandate that they be close to the "office" of the Governor. The language used in Section 4c(2) to extend the general exemption to "all positions under" each constitutional officer could not be used for the office of Governor because that would have included all positions in the numerous Code-covered agencies in State government as they are all, technically, under the Governor and have been referred to in such a manner at times in the laws of Illinois.

It was noted that a reasonable interpretation of the word "immediate" and how it qualifies the phrase "personal staff" - in accordance with its definition in Black's Law Dictionary - is that it means "not separated in respect to place; not separated by the intervention of any intermediate object, cause, relation or right." In addition to employees physically located within the Office of the Governor, there are numerous positions in the State appointed by the Governor and who report to the Governor, but which are not physically located within the Office of the Governor and so are not proximate "in respect to place."

Since Section 4c(6) can be reasonably construed in different ways, the law requires a construction which will not produce absurd, unjust, unreasonable or inconvenient results which the legislature could not have intended in accordance with *Burgess v. Board of Fire and Police Commissioners of the Village of Evergreen Park*, 275 Ill.App.3d 315 (1995). It would be absurd for the exemption to be limited to those who report to him personally, while all employees of the other constitutional officers are exempt. That simply could not have been the intent of the legislature. In contrast, exempting all of the staff of the Office of the Governor pursuant to this section would not be "absurd, unjust, unreasonable, or inconvenient." That is the construction that Central Management Services - the agency responsible for administering the Personnel Code - has applied to this section.

May 16, 2008

Therefore, it is the conclusion that the general exemption under Section 4c(6) of the Personnel Code applies to positions on the Governor's payroll whose functions provide an acute benefit to the administration's operation and which, by their nature, require that they be physically located close to the incumbent Governor's Office. It does not apply to positions situated in the various State agencies under his jurisdiction. This interpretation is consistent with what appears to have been close to 50 years' application of this section that has been accepted by both Central Management Services and the Civil Service Commission, and no evidence was uncovered that this has ever been challenged by the public or legislature during this time period.

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO ACCEPT THE REPORT OF COMMISSION STAFF ON THE APPLICATION OF SECTION 4c(6) OF THE PERSONNEL CODE.**

XII. STAFF REPORT

Executive Director Stralka reported that

- Beckie Daniken attended the State and University Employees Combined Appeal (SECA) Awards Reception at the Executive Mansion on April 17, 2008 and accepted an award for Outstanding Achievement in the 2007 SECA Campaign on behalf of the Commission.
- There is a new employee benefit for 2008: College Illinois! 529 Prepaid Plan. This program is the state's 529 prepaid tuition program. Brochures were made available for the Commissioners.
- The Compensation Review Board proposed statewide salary increases which include increases for the Commissioners. These salary increases are still dependent upon action by the General Assembly.

XIII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on Thursday, June 19, 2008 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 3:20 P.M.**