

July 17, 2008

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
July 17, 2008

I. OPENING OF MEETING AT 9:02 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, Assistant Executive Director (via telephone); Jan Oncken, Central Management Services; Mike Quinlan, Department of Human Services; DiAna Greene and George Rudis, Department of Public Health; and Rebecca Shuster, Public Safety Shared Services Center.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD JUNE 19, 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 JUNE 19, 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	165.....	9
Agriculture	517.....	16
Arts Council.....	21.....	2
Capitol Development Board	36.....	0
Central Management Services	1,506.....	106
Children and Family Services	3,177.....	48
Civil Service Commission	4.....	0
Commerce & Economic Opportunity	425.....	67
Commerce Commission.....	70.....	0
Corrections.....	11,652.....	113
Criminal Justice Authority	55.....	6
Deaf and Hard of Hearing Comm.	6.....	1
Developmental Disabilities Council	9.....	1
Emergency Management Agency	95.....	2
Employment Security.....	1,652.....	24
Environmental Protection Agency	1,012.....	19
Financial & Professional Regulation	742.....	49
Guardianship and Advocacy	109.....	7
Healthcare and Family Services.....	2,436.....	29
Historic Preservation Agency	253.....	12
Human Rights Commission	12.....	2
Human Rights Department	150.....	9
Human Services	14,697.....	68
Investment Board.....	3.....	2
Juvenile Justice	1,182.....	19
Labor.....	81.....	7
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	125.....	3
Natural Resources	1,631.....	22
Pollution Control Board.....	19.....	2
Prisoner Review Board	21.....	0
Property Tax Appeal Board	26.....	1
Public Health.....	1,136.....	38
Revenue	2,125.....	66
State Fire Marshal.....	155.....	12
State Police	1,433.....	6
State Police Merit Board.....	5.....	1
State Retirement Systems	81.....	1
Transportation.....	2,474.....	0
Veterans' Affairs.....	1,125.....	7
Workers' Compensation Commission	172.....	10
TOTALS	50,649.....	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 Stralka reported that this request is for the Director of the Bureau of Pharmacy and Clinical Support Services for the Illinois Department of Human Services, a position that reports to the Administrator of Mental Health, who reports to a statutory Assistant Secretary. This position has principal programmatic responsibility for the operation and maintenance of all pharmaceutical services in the agency's Department of Mental Health which consists of 12 inpatient pharmacies serving 18 facilities. In 2007, that program dispensed 1,500,000 prescriptions. Given the nature of the program and the quantity of its services, Staff recommended approval of this request.

This position had been continued last month since the incumbent indicated he had an objection to the request. Subsequently, the incumbent notified the Commission that he concurred that the position fit the criteria for principal policy exemption.

Mike Quinlan, Classification Manager at Department of Human Services, was present to add to or correct the Staff presentation and respond to any questions. He apologized for his absence last month and confirmed the above representations.

- With regard to Item D, Executive Director Stralka reported that this request is for a Media Administrator for the Illinois Department of Public Health. Staff brought up several issues which were unable to be resolved prior to this meeting so the agency requested a continuance.
- With regard to Items E1-E3, Executive Director Stralka noted that these three requests are from the Illinois Emergency Management Agency. Item E1 is for a Chief of Staff, a position that reports to the Director. This position has a broad range of responsibilities across all programs of the agency and has day-to-day responsibilities over the activities of the agency. For these reasons, Staff recommended approval.

As to Item E2, this request is for a Policy Advisor, a position that reports to the Director. This position has significant policy formulation responsibilities and serves as the agency's strategic planner. However, Staff had questions regarding potential overlap with a "Policy Administrator" position recently granted 4d(3) exemption by the Commission as well as overlap with the Chair of the Illinois Terrorism Task Force. Since this position is a Public Service Administrator, Staff inquired as to its bargaining unit status. The agency responded late on July 16, 2008 with regard to the overlap issue, noting that the Policy Administrator is focused more on the Emergency Management Preparedness Grant from the federal government while the requested position is more of a strategic planning position. While it appears this grant involves a significant sum of money for funding various emergency initiatives throughout the State, due to the timing, this has yet to be confirmed and its bargaining unit status remains unclear. For these

reasons, Staff recommended that this matter be continued. Rebecca Shuster, Assistant Deputy Director for the Public Safety Shared Services Center, was present and indicated that to the best of her knowledge the Public Service Administrator Option 1 title has not yet been certified by the Illinois Labor Relations Board and that in any event, this position would be submitted for exclusion.

As to Item E3, this request is for a Community Outreach Officer, a position that reports to the Director. This position develops programs and materials to improve public awareness regarding emergency preparedness. However, Staff had questions regarding potential overlap with the dedicated Media Administrator position for the agency which performs similar duties but limited to the media. For example, this position is responsible for the agency's Public Service Announcement program, but that overlaps with the Media Administrator's responsibilities. Since this position is a Public Service Administrator, Staff inquired as to its bargaining unit status also. The agency responded on July 16, 2008, essentially differentiating the public education functions of this position from the media functions of the Media Administrator. This points out an unresolved issue which may appear before the Commission. When the Media Administrators were created several years ago, they were to centralize and replace agency Public Information Officers. In fact, Public Information Officers were specifically mentioned in the Executive Order creating the Media Administrators. Most historic Public Information Officers performed both media and public education programs in their agencies. This agency – as others may also – is seeking to split those responsibilities between two positions and have each justify a principal policy exemption. This is a novel issue before the Commission. In addition, its bargaining unit status remains unclear. For these reasons, Staff recommended that this matter be continued. Rebecca Shuster, Assistant Deputy Director for the Public Safety Shared Services Center, was present and indicated that to the best of her knowledge the Public Service Administrator Option 1 title has not yet been certified by the Illinois Labor Relations Board and that in any event, this position would be submitted for exclusion. She confirmed that this position would be focused on public education by interacting with various units of local government and their law enforcement or emergency response units in areas such as tornado and earthquake preparedness. Chairman Kolker inquired if this would extend to flood preparedness also.

- As to Item F, this request is for the Assistant Deputy Director for the Office of Finance and Administration for the Illinois Department of Public Health. This position reports to the Deputy Director for the Office of Finance and Administration, who in turn reports to the Director so its superior would be considered the equivalent of a statutory assistant director. This position serves as the Deputy State Registrar, a position established by the Vital Records Act. As such, it has principal policy responsibilities in carrying out the mandate of the Act which oversees the receipt and filing of more than 450,000 certificates of birth, death, fetal death, abortion, marriage, and divorce annually. For these reasons, Staff recommended approval of this request.

DiAna Greene, Deputy Director of Human Resources for Illinois Department of Public Health, and George Rudis, the incumbent, were present to add to or correct the Staff presentation and respond to any questions. Mr. Rudis confirmed the Staff's analysis and indicated that he had no objection to the proposed exemption.

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, 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 July 17, 2008:

C. Illinois Department of Human Services

Position Number	40070-10-89-200-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Mental Health & Developmental Disabilities
Functional Title	Director, Bureau of Pharmacy and Clinical Support
Incumbent	Randy D. Malan
Supervisor	Administrator of Mental Health & Developmental Disabilities, who reports to the Assistant Secretary, who reports to the Secretary
Location	Sangamon County

E1. Illinois Emergency Management Agency

Position Number	40070-50-17-000-00-02
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Chief of Staff
Incumbent	None
Supervisor	Director
Location	Sangamon County

F. Illinois Department of Public Health

Position Number	40070-20-10-100-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Office of Finance and Administration
Functional Title	Assistant Deputy Director, Office of Finance & Administration, and Division Chief of Vital Records
Incumbent	George Rudis
Supervisor	Deputy Director, Office of Finance & Administration, who reports to the Director
Location	Sangamon County

The following 4d(3) exemption requests were continued on July 17, 2008:

D. Illinois Department of Central Management Services

Position Number	40070-37-80-100-01-19
Position Title	Senior Public Service Administrator
Bureau/Division	Office of Communications & Information (IOCI) / Statewide Media Services
Functional Title	Media Administrator #2 – for Department of Public Health
Incumbent	None
Supervisor	Division Manager of Statewide Media Relations, who reports to IOCI Deputy Director, who in turn reports to the Director
Location	Cook County

E2. Illinois Emergency Management Agency

Position Number	37015-50-17-000-00-03
Position Title	Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Senior Policy Advisor
Incumbent	None
Supervisor	Director
Location	Sangamon County

E3. Illinois Emergency Management Agency

Position Number	37015-50-17-000-00-04
Position Title	Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Community Outreach Officer
Incumbent	None
Supervisor	Director
Location	Sangamon County

V. CLASS SPECIFICATIONS

- None submitted.

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER PETERSON, 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), 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 160 North LaSalle Street, Suite S-901, Chicago, Illinois at **10:35** 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, Assistant Executive Director (via telephone).

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	5/31/08	6/30/08	6/30/07
Agriculture	2	1	8
Arts Council	1	0	1
Central Management Services	6	6	9
Children and Family Services	12	12	6
Commerce and Economic Opportunity	0	0	1
Employment Security	2	2	1
Financial and Professional Regulation	1	0	0
Healthcare and Family Services	15	16	18
Historic Preservation	0	2	25
Human Services	7	4	5
Natural Resources	21	25	29
Property Tax Appeal Board	1	1	2
State Police	1	1	0
State Retirement Systems	0	0	1
Transportation	10	6	28
Veteran's Affairs	1	3	2
Workers' Compensation Commission	0	1	1
Totals	80	80	137

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IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

• DISCHARGE

DA-39-08

Employee	Symeon M. Brown	Appeal Date	4/08/08
Agency	DOC	Decision Date	7/03/08
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Unauthorized absences	Recommended Decision	Charges are proven and do warrant discharge.

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 DISCHARGE WERE PROVEN AND DO WARRANT DISCHARGE FOR THE REASONS SET FORTH IN THE RECOMMENDED DECISION, INCLUDING BROWN'S HISTORY OF PROGRESSIVE DISCIPLINE UNDER THE AFFIRMATIVE ATTENDANCE POLICY; THE NEED FOR CONSISTENT APPLICATION OF THE PENALTIES IN THE SCHEDULE SET FORTH IN THE AFFIRMATIVE ATTENDANCE POLICY; BROWN'S DISREGARD FOR COMPLYING WITH THE AGENCY'S PROCEDURES WHICH HE WAS ON NOTICE OF, OR WAS REASONABLY EXPECTED TO BE ON NOTICE OF; THE LENGTH OF TIME THAT PASSED BETWEEN WHEN HE MOST LIKELY RECEIVED THE LEAVE OF ABSENCE PACKET (DECEMBER 27, 2007) AND WHEN HE FINALLY SUBMITTED THE COMPLETED DOCUMENTS (FEBRUARY 13, 2008) WITHOUT ANY LEGITIMATE EXPLANATION OTHER THAN MISPLACED RELIANCE ON HIS UNION; BROWN'S FAILURE TO ATTEND HIS INTERNAL HEARING ON HIS DISCHARGE; THE AGENCY'S NEED TO BE ABLE TO RELY ON ITS EMPLOYEES TO SHOW UP FOR WORK AS SCHEDULED SO AS NOT TO JEOPARDIZE THE OVERALL SECURITY OF STATEVILLE, AS WELL AS THE GENERAL PUBLIC; AND OTHER FACTORS AS SET FORTH IN THE RECOMMENDED DECISION DATED JULY 3, 2008.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

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X. APPEALS TERMINATED WITHOUT DECISION ON THE MERITS

• **DISMISSED**

DA-35-08

Employee	Paula M. Meyers	Appeal Date	3/10/08
Agency	Juvenile Justice	Decision Date	6/27/08
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Pled guilty to operating under the influence of alcohol or drug while having an alcohol concentration of .08 or more (violated standards of conduct)	Recommended Decision	Motion to Dismiss is granted; no jurisdiction (when discharge was reversed and reduced to a 30-day suspension, employee had not been suspended for more than 30 days in any 12-month period).

• **DISMISSED**

DA-53-08

Employee	DeMarco Nichols	Appeal Date	6/16/08
Agency	DOT	Decision Date	7/08/08
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Threat of violence in the workplace	Recommended Decision	Dismissed; withdrawn (will pursue through grievance procedure).

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 DECISIONS TO DISMISS THE MEYERS AND NICHOLS APPEALS.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

XI. STAFF REPORT

Executive Director Daniel Stralka reported that:

- The Commission's fiscal year 2009 budget bill has been signed by the Governor. There were no cuts from the original submission. The Office of Management and Budget is requiring agencies to reserve three percent of their appropriation, an increase from two percent.

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- The per diem allowance for lodging in Chicago for fiscal year 2009 has been increased to \$149 plus tax. Springfield lodging per diem will remain the same and the mileage reimbursement is now \$0.505.

XII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on Thursday, August 21, 2008 at 9:00 a.m. in the Commission's Chicago office.

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 10:45 A.M.