

December 20, 2007

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
December 20, 2007

I. OPENING OF MEETING AT 9:12 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris of the Commission staff; DiAna McCarter, Department of Public Health; and Bridget Devlin, Commerce and Economic Opportunity.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD NOVEMBER 15, 2007

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY CHAIRMAN KOLKER, AND THE MOTION ADOPTED 4-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 15, 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	152.....	9
Agriculture	470.....	17
Arts Council.....	22.....	2
Capitol Development Board	37.....	0
Central Management Services	1,556.....	108
Children and Family Services.....	3,226.....	44
Civil Service Commission	4.....	0
Commerce & Economic Opportunity	418.....	65
Commerce Commission.....	69.....	0
Corrections.....	12,046.....	107
Criminal Justice Authority.....	59.....	6
Deaf and Hard of Hearing Comm.	7.....	1
Developmental Disabilities Council	10.....	1
Emergency Management Agency	96.....	2
Employment Security.....	1,666.....	25
Environmental Protection Agency	1,022.....	19
Financial & Professional Regulation	762.....	50
Guardianship and Advocacy	111.....	7
Healthcare and Family Services.....	2,364.....	29
Historic Preservation Agency	269.....	12
Human Rights Commission	9.....	2
Human Rights Department	157.....	8
Human Services	14,643.....	67
Investment Board.....	2.....	2
Juvenile Justice	1,236.....	18
Labor.....	80.....	8
Labor Relations Board Educational	13.....	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	120.....	3
Natural Resources	1,496.....	27
Pollution Control Board.....	22.....	3
Prisoner Review Board	21.....	0
Property Tax Appeal Board	23.....	2
Public Health.....	1,123.....	36
Revenue	2,095.....	64
State Fire Marshal.....	157.....	12
State Police	1,457.....	6
State Police Merit Board.....	5.....	1
State Retirement Systems	81.....	1
Transportation.....	2,738.....	1
Veterans' Affairs.....	1,122.....	5
Workers' Compensation Commission	173.....	11
TOTALS.....	51,181.....	786

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 Items C1, C2, and D, Executive Director Daniel Stralka indicated that these matters were continued from last month since there were questions about these requests which the agency was unable to respond to prior to the meeting. The Agency requested a face-to-face meeting to address the questions and as the meeting had yet to be scheduled, Staff recommended continuing these requests.
- With regard Item E, Executive Director Daniel Stralka stated that this request is for exemption for a “high level staff assistant” to the Chief Legal Counsel and the Chief of Labor Relations. This was continued from last month after Staff recommended denial of this request and the agency made a presentation to the Commission, and the Chairman suggested that the agency be given additional time to work out its differences with the Staff. Not having heard from the agency, Staff sent an e-mail reminder to the agency on December 11 stating that unless additional information was provided the Staff recommendation will remain to deny this request. It was also just discovered that according to the position description, this position is in a bargaining unit. The Department of Corrections did not respond until late yesterday afternoon with a new position description and also requested a continuance. The agency representative could not be here because of a conflict with a Shared Services Center meeting. Considering all that, it was the Staff recommendation to deny this request for the reasons set forth last month as well as its collective bargaining unit status. Chairman Kolker suggested an additional continuance to allow the agency to respond to the Commission.
- With regard to Item F, Executive Director Daniel Stralka reported that this request is for exemption for a “high level staff assistant” to the Chief of Intergovernmental Relations, essentially another legislative liaison. This was continued from last month after Staff recommended denial of this request but the Department of Corrections provided additional information the night before the meeting which raised other questions, none of which could be resolved in that short period of time. Not having heard from the agency, Staff sent an e-mail reminder to the agency on December 11 stating that unless additional information was provided the Staff recommendation will remain to deny this request. The Department of Corrections responded late yesterday afternoon with some additional information, but this additional information raised more questions about the need for a 5th legislative liaison and also the current organizational chart they sent and the position description do not match up with the information they provided. For these reasons, it was the Staff recommendation to continue this request.
- With regard to Item G, Executive Director Daniel Stralka reported that this request is for exemption of a position which would essentially serve as the Executive Director of the Interagency Commission of Employees with Disabilities (ICED), a commission created by the Personnel Code and which the

Chairman of the Civil Service Commission serves on, represented by Andrew Barris. The Administration has determined to raise the status of the ICED by creating a full-time paid lead administrator who would report to the Director of the Department of Human Rights. As this position would have total administrative responsibility for ICED, Staff recommended approval of this request.

- With regard to Item H, Executive Director Daniel Stralka represented that the agency requested a continuance of this request so a senior manager can address the Commission personally at the January meeting. Therefore, Staff recommended continuing this request.
- With regard to Item I, Executive Director Daniel Stralka stated that this request is for the Fire Safety Compliance Manager, a position that reports directly to the Fire Marshal. This position has principal responsibility for administering the Cigarette Fire Safety Standard Act – which takes effect January 1, 2008 – and the inspection and compliance portion of the Pyrotechnic Distributor and Operator Licensing Act. For these reasons, Staff recommended approval of this request even though there were reservations since a somewhat comparable position – the Fire Prevention Director – is an SPSA with 11 subordinates that is a term appointment and not 4d(3) exempt. However, this organizational inconsistency was not sufficient reason to recommend denial of this request.
- With regard to Item J, Executive Director Daniel Stralka indicated that this request is for the Deputy Director, Bureau of Economic Development. This is a position whose exemption was rescinded by the Commission in April 2006 due to its responsibilities being performed by a statutory assistant director. These responsibilities as the principal regional economic development administrator reporting to the agency director have been restored. For these reasons, Staff recommended approval of this request.
- With regard to Item K, Executive Director Daniel Stralka reported that this request is for the Chief Litigation Attorney for the Department of Human Rights, a position reporting to the Chief Counsel who reports to the Director. On December 11, Staff sent an e-mail inquiry for additional information to the agency, mainly inquiring about the level of independent decision-making authority of the position and the quantity and type of litigation for which the position would be principally responsible. The agency never responded to Staff's inquiry. For this reason, the Staff recommendation was to deny this request.

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

The following 4d(3) exemption requests were granted on December 20, 2007:

G. Illinois Department of Human Rights

Position Number	40070-49-00-000-01-02
Position Title	Senior Public Service Administrator
Bureau/Division	Administrative Executive Office
Functional Title	Administrator, Interagency Committee on Employees with Disabilities (ICED)
Incumbent	None
Supervisor	Director
Location	Sangamon County

I. Illinois State Fire Marshal

Position Number	37015-50-50-000-20-16
Position Title	Public Service Administrator
Bureau/Division	Fire Prevention
Functional Title	Fire Safety Compliance Manager
Incumbent	None
Supervisor	State Fire Marshal
Location	Cook County

J. Illinois Dept. of Commerce and Economic Opportunity

Position Number	40070-42-10-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Bureau of Economic Development
Functional Title	Deputy Director, Bureau of Economic Development
Incumbent	None
Supervisor	Director
Location	Cook County

The following 4d(3) exemption request was denied on December 20, 2007:

K. Illinois Department of Human Rights

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

The following 4d(3) exemption requests were continued on December 20, 2007:

C1. Illinois Department of Central Management Services

Position Number	40070-37-00-010-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Associate Director (BOSSAP, Property Mgmt., BEP)
Incumbent	None
Supervisor	Director
Location	Cook County

C2. Illinois Department of Central Management Services

Position Number	40070-37-00-200-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Chief Administrative Officer
Incumbent	None
Supervisor	Director
Location	Cook County

D. Illinois Department of Central Management Services

Position Number	40070-37-60-000-20-01
Position Title	Senior Public Service Administrator
Bureau/Division	Bureau of Property Management
Functional Title	Chief Operating Officer
Incumbent	None
Supervisor	Deputy Director, Bureau of Property Management who reports to the Director
Location	Sangamon County

E. Illinois Department of Corrections

Position Number	00502-29-00-700-01-01
Position Title	Administrative Assistant II
Bureau/Division	Director's Office
Functional Title	Staff Assistant to Chief Legal Counsel and the Chief of Labor Relations
Incumbent	None
Supervisor	Chief Legal Counsel, who reports to the Director
Location	Sangamon County

F. Illinois Department of Corrections

Position Number	37015-29-00-110-05-01
Position Title	Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Executive Staff Assistant to Chief of Intergovernmental Relations
Incumbent	None
Supervisor	Chief of Intergovernmental Relations, who reports to the Director
Location	Sangamon County

H. Illinois Department of Human Services

Position Number	40070-10-00-520-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Chief Operations Office
Functional Title	Chief of the Bureau of Civil Affairs
Incumbent	Margaret D. LaPorte
Supervisor	Chief Operating Officer, who reports to the Secretary
Location	Cook County

Prior to addressing Items L1-L4 on the agenda, Executive Director Daniel Stralka reiterated for the Commissioners that the original list of Commission initiated rescissions for November's meeting contained 35 positions, most of which had been vacant in excess of six months. Notice went out to both the Director of Central Management Services and each affected Agency Director of the proposed rescissions. After discussions with many of the affected agencies during the course of the past month, many of the concerns that led to the proposed rescission notices were resolved and only 13 were placed on the November agenda, with the following four being continued to the December agenda. If the Commission approves the rescission of 4d(3) exempt status for any of these positions, it does not mean that the position is eliminated, only that the position is subject to the merit and fitness provisions of the Personnel Code and Rules. Finally, if a

position has its exempt status rescinded and an agency subsequently decides that it believes exemption is warranted, there is nothing that prevents it from making a new request for exemption next month.

- With regard to Items L1 and L2, Executive Director Daniel Stralka stated that these positions – the Program Manager for the Office of Re-Entry Management and the Manager, Planning and Research, both of which have incumbents – first came to Staff's attention when the Department of Corrections submitted the Statewide Resources and Program Development position for exemption in April of this year. The Department of Corrections was notified at that time that the granting of that exemption request would have a negative impact on the qualification for exemption of these two positions because some of the programmatic responsibilities that justified the exemption of these two positions were being assigned to the Statewide Resources and Program Development position and also because these two positions were being moved one further step down the organizational ladder – they are now three steps removed from the Director and two steps from a Deputy Director who could be classified as the equivalent of a statutory assistant director. These were continued last month after the agency submitted some additional information the night before the meeting. Subsequently, the agency submitted clarified position descriptions for all three of the above positions. While there are no programmatic issues with respect to Item L1, there is significant, almost verbatim overlap between Item L2 and the Statewide Resources and Program Development position – now renamed the Chief of Office of Re-Entry Management. In addition, the issue of how far removed these positions are from the Director remains. The agency failed to respond to Staff concerns that were e-mailed earlier this week. It was the Staff suggestion to the Commission not to proceed with the rescission of exemption for these two positions, but instead have Staff send notice to the Department of Corrections that it will be considering rescission of the exemption for the Chief of Office of Re-Entry Management – which is presently vacant – at the next possible meeting which would be February 2008. The Department of Corrections would be notified that this may occur so they are on notice of potential rescission if it proceeds to fill the vacant position in the interim.
- With regard to Item L3, Executive Director Daniel Stralka reported that this is the Department of Public Health Deputy Director for its Office of Health Protection program which has been vacant for – at a minimum – 3 years. This was continued at last month's meeting after the agency indicated this position was a critical need and would be filled imminently. The agency e-mailed Staff that the EPAR was approved on November 20, 2007, but the CMS automated system still showed the position as vacant, and the agency indicated that it is waiting for "final approval" which was not defined. DiAna McCarter, Deputy Director of Human Resources, responded that the functions are presently being performed in accordance with a 75-day personal service contract. The "final approval" was denied by the Chief of Staff on December 18, but the agency is appealing that decision and requested a continuance.

- With regard to Item L4, Executive Director Daniel Stralka indicated that this is the Lottery Deputy Director for the Hispanic Market Office, first exempted in July 2004. This position had been filled at one time, but has been vacant at least 2 years. Upon notification, the Department of Revenue indicated that it has “had a person acting in this position for over a year pending PAR approval.” They have requested PAR approval and it is their intention to “permanently fill this position.” Staff responded to the agency on November 7 seeking the appointment history of the position and an explanation as to who was performing the responsibilities of the position while it was vacant. Prior to last month’s meeting, the Department of Revenue asked that this be continued, which occurred. On December 14, Staff e-mailed the agency seeking an update. On December 18, the Department of Revenue e-mailed back requesting another continuance since the EPAR had not yet been approved.

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 5-0 TO CONTINUE AND DENY THE PROPOSED RESCISSIONS FROM 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:

The following 4d(3) exemption rescissions were continued on December 20, 2007:

Agenda Item	Agency	Position Number	Functional Title
L3	DPH	26404-20-50-000-00-02	Health Protection
L4	Revenue	40070-25-90-200-20-01	Deputy Director, Lottery-Hispanic Market

The following 4d(3) exemption rescissions were denied on December 20, 2007:

Agenda Item	Agency	Position Number	Functional Title
L1	DOC	40070-29-00-000-60-01	Planning & Research
L2	DOC	40070-29-00-500-00-01	Placement Resource

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.

December 20, 2007

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.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 10:20 a.m.

PRESENT

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

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code, however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	10/31/07	11/30/07	11/30/06
Agriculture	0	0	2
Arts Council	0	0	1
Central Management Services	5	4	2
Children and Family Services	6	6	6
Healthcare and Family Services	5	4	7
Historic Preservation	7	3	0
Human Services	2	2	3
Natural Resources	9	13	17
State Fire Marshal	0	0	1
State Retirement Systems	0	0	1
Transportation	10	5	7
Workers' Compensation Commission	2	0	0
Totals	46	37	47

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

- **DISCHARGE**

DA-35-07

Employee	Teresa Ralph	Appeal Date	04/02/07
Agency	DOC	Decision Date	12/07/07
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Conduct unbecoming (used a recording device to record unauthorized conversations with the Warden)	Recommended Decision	Charges are partially proven and warrant discharge.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS AND BY ROLL CALL VOTE OF 4-1 THE MOTION ADOPTED TO AMEND AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGES HAVE BEEN PROVEN AND DO WARRANT DISCHARGE AS IT WAS PROVEN BY A PREPONDERANCE OF THE EVIDENCE THAT RALPH'S ATTEMPT TO SECRETLY TAPE RECORD THE WARDEN VIOLATES THE STATE EAVESDROPPING STATUTE AND CONSTITUTES CONDUCT UNBECOMING THAT RENDERS HER CONTINUANCE IN THE POSITION DETRIMENTAL TO THE DISCIPLINE AND EFFICIENCY OF THE SERVICE AND WHICH THE LAW AND SOUND PUBLIC OPINION RECOGNIZE AS GOOD CAUSE FOR THE EMPLOYEE TO NO LONGER HOLD THE POSITION.

KOLKER	YES	EWELL	NO
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

- **DISCHARGE**

DA-41-07

Employee	Deborah Fuqua	Appeal Date	04/30/07
Agency	DOC	Decision Date	12/07/07
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Conduct unbecoming (secured a recording device to be used to record unauthorized conversations)	Recommended Decision	Charges proven but circumstances warrant 60-day suspension in lieu of discharge

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AMEND AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGES HAVE BEEN PROVEN BUT GIVEN FUQUA'S RECORD OF POSITIVE PERFORMANCE EVALUATIONS, LACK OF PRIOR DISCIPLINE AND LENGTH OF SERVICE TO THE STATE OF ILLINOIS, THE UNIQUE FACTUAL CIRCUMSTANCES SURROUNDING THE DISCHARGE DO NOT RISE TO THE LEVEL WHICH SOUND PUBLIC OPINION RECOGNIZES AS GOOD CAUSE FOR THE EMPLOYEE TO NO LONGER HOLD THE POSITION. HOWEVER, THE COMMISSION SPECIFICALLY FINDS THAT HER ROLE IN ORIGINATING THE IDEA TO USE A TAPE RECORDER AND PROVIDING A TAPE RECORDER TO CARRY OUT THE PLAN REQUIRES A LEVEL OF DISCIPLINE GREATER THAN THE 60-DAY SUSPENSION RECOMMENDED BY THE ADMINISTRATIVE LAW JUDGE. THE PROVEN CHARGES WARRANT A 90-DAY SUSPENSION IN LIEU OF DISCHARGE.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

- **DISCHARGE**

DA-5-08

Employee	Brenda Gold	Appeal Date	08/09/07
Agency	DOT	Decision Date	11/26/07
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	No charges available; employee was a non-code employee (Technical Manager for the Department of Transportation)	Recommended Decision	Motion to Dismiss is granted subject to approval of the Commission; no jurisdiction (employee is not subject to Jurisdiction B of the Personnel Code).

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION TO DISMISS THE APPEAL BECAUSE GOLD WAS NOT AN EMPLOYEE SUBJECT TO JURISDICTION B OF THE PERSONNEL CODE AT THE TIME OF HER DISCHARGE AND SO THE COMMISSION HAS NO JURISDICTION OVER THIS MATTER. THE PARTIES HAD NEITHER THE INTENT TO PLACE GOLD IN A PERSONNEL CODE COVERED POSITION NOR THE AUTHORITY TO DO SO.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

X. APPEALS TERMINATED WITHOUT DECISION ON THE MERITS

- **DISMISSED**

DA-27-07

Employee	Thomas Himpsl	Appeal Date	02/01/07
Agency	DOC	Decision Date	11/16/07
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Conduct unbecoming; sexual harassment; standards of conduct violation	Recommended Decision	Dismissed subject to approval of Commission; withdrawn.

IT WAS MOVED BY CHAIRMAN KOLKER, 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 TO DISMISS AS THE EMPLOYEE FILED A REQUEST TO WITHDRAW THE APPEAL.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

- **DISMISSED**

AA-18-08

Employee	Carl A. Fritz	Appeal Date	11/27/07
Agency	CMS	Decision Date	11/18/07
Type	Allocation	ALJ	Andrew Barris
Charge(s)	Position should be allocated to Public Service Administrator instead of Technical Advisor II	Proposed Finding	Dismissed subject to approval of Commission; no jurisdiction (not timely filed).

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY CHAIRMAN KOLKER AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSED FINDING TO DISMISS AS THE EMPLOYEE DID NOT FILE THE APPEAL WITHIN 15 DAYS OF RECEIPT OF THE DECISION ON RECONSIDERATION. ALTHOUGH THE EMPLOYEE STATED IN HIS

RESPONSE TO THE PROPOSED FINDING THAT HE CHANGED RESIDENCES, THE FACT REMAINS THAT HE RECEIVED THE DECISION ON RECONSIDERATION ON NOVEMBER 8, 2007. THE ALLOCATION APPEAL WAS FILED ON NOVEMBER 27, 2007. THE PETITIONER HAS POINTED TO NO RULE THAT REQUIRES CENTRAL MANAGEMENT SERVICES TO INFORM HIM THAT HE HAD TO FILE THE APPEAL WITH THE COMMISSION WITHIN 15 DAYS.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

XI. AMENDMENT TO THE PERSONNEL RULES

SUBPART F: PROBATIONARY STATUS (80 IAC 302.300)

Section 302.300 Probationary Period

- c) An employee transferred during the probationary period shall serve that portion of the probationary period which was not completed at the time of ~~such~~ the transfer.
- d) A probationary period shall not be deemed to be continued by the payment of any sum for vacation or other benefits accrued during ~~such~~ the probationary period.
- e) If an employee is absent from work for more than 15 consecutive calendar days during the probationary period because of leave of absence, disciplinary suspension, sick leave, unauthorized absence, or work related injury or industrial disease, ~~such~~ the absence shall serve to extend the probationary period by the length of the absence.

Staff analysis: The above changes serve as a housekeeping function rather than a substantive change.

XII. STAFF REPORT

Executive Director Daniel Stralka reported that:

- Ethics Compliance Reports for 2007 submitted on December 3, 2007.
- Audit of 4d(3) positions in bargaining units was conducted.

December 20, 2007

- Field work by Auditor General for our two-year compliance audit for the period ending June 30, 2007 was completed December 6. Preliminary results are due by the end of December. We have been advised that the auditor has recommended no findings. The audit supervisor concurs, but the audit is still undergoing final review.
- Sandra Guppy attended e-recruiting training. This system will go live January 1, 2008. Applicants for State jobs will be able to prepare and submit their applications on-line.
- We received FY 2009 ISL forms. These are due to the four legislative bodies at noon on Wednesday, February 20.
- Our fiscal year 2009 budget request is still pending. OMB has not communicated if either of our required submissions (95% and 100%) is acceptable.
- Each state agency is required to form an internal environmental sustainability committee in compliance with the Green Governments Illinois Act (PA 95-0657). Beckie is the Commission's Green Government representative and has asked that Sandy serve on the committee. An annual environmental sustainability plan is due March 1, 2008 with a progress report due July 1, 2008.
- Beckie Daniken attended an advanced Outlook class on December 11, 2007.
- Executive Director Daniel Stralka informed the Commissioners of issues related to the maintenance of hearing transcripts by Commission staff. Periodically, respondents or their attorneys make requests to "check out" transcripts, usually when there are written closing arguments due. Court reporters have at times complained to the Staff that these respondents or attorneys are copying the transcripts when they should more properly be purchasing copies from the court reporters. There was also a concern that the Staff is relinquishing control of public records of the Commission, though the few times transcripts have been checked out the responsible party has signed off on a form pledging to provide a new copy if the original is somehow lost or damaged.

Discussion among the Commissioners followed as to the appropriate way to balance the competing interests of providing an affordable forum for respondents to present their case to the Commission while protecting the Commission's role as keeper of these public records and acknowledging the complaints of the court reporters. It was the consensus of the Commissioners that in the future, any such request to check out hearing transcripts should be made to the Executive Director who should then evaluate each on a case-by-case basis prior to approving or denying the request with appropriate safeguards for the Commission's role as the keeper of these public records.

December 20, 2007

XIII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on January 17, 2008 at 9:00 a.m. in the Commission's Chicago office.

XIV. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER PETERSON AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 10:30 AM.