

September 21, 2006

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
September 21, 2006

I. OPENING OF MEETING AT 9:02 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; George Richards, Raymond W. Ewell, Barbara J. Peterson, and Betty A. Bukraba, Commissioners; Daniel Stralka, Executive Director; Andrew Barris (via conference call) of the Commission staff; Jan Oncken, Department of Central Management Services; Terry Scrogum and Romie Munoz, Illinois Arts Council; Mike Quinlan, Rebecca Wagner, and Elizabeth Gil, Illinois Department of Human Services; Jodie Winnett and Paul Bogdanski, Illinois Department of Revenue.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD AUGUST 17, 2006

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY CHAIRMAN KOLKER AND THE MOTION ADOPTED 4-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD AUGUST 17, 2006. COMMISSIONER PETERSON ABSTAINED.

IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>No. of Exempt Positions</u>
Aging	144.....	9
Agriculture	620.....	17
Arts Council.....	20.....	1
Capitol Development Board	32.....	0
Central Management Services	1,607.....	111
Children and Family Services.....	3,363.....	41
Civil Service Commission	4.....	0
Commerce & Econ. Opportunity	435.....	61
Commerce Commission.....	54.....	0
Corrections.....	12,486.....	101
Criminal Justice Authority	70.....	6
Deaf and Hard of Hearing Comm.	6.....	1
Developmental Disabilities Council	11.....	1
Emergency Management Agency	106.....	1
Employment Security.....	1,790.....	26
Environmental Protect. Agency	1,077.....	17
Financial. & Prof. Regulation	815.....	43
Guardianship and Advocacy	112.....	6
Healthcare and Family Services	2,341.....	29
Historic Preservation Agency	344.....	12
Human Rights Commission	12.....	2
Human Rights Department	136.....	8
Human Services	14,907.....	62
Investment Board.....	5.....	2
Juvenile Justice	1,331.....	18
Labor.....	76.....	7
Labor Relations Board Educational	16.....	2
Labor Relations Board Local	1.....	0
Labor Relations Board State	17.....	2
Law Enforce. Trng. & Standard Bd.	23.....	1
Medical District Comm.....	2.....	0
Military Affairs	143.....	3
Natural Resources	1,708.....	27
Pollution Control Board.....	26.....	3
Prisoner Review Board	22.....	0
Property Tax Appeal Board	19.....	2
Public Health.....	1,110.....	35
Revenue	2,031.....	59
State Fire Marshal	150.....	9
State Police	1,476.....	6
State Police Merit Board.....	5.....	1
State Retirement Systems	84.....	1
Transportation.....	2,864.....	1
Veterans Affairs.....	1,168.....	5
Workers Comp. Commission.....	177.....	10
TOTALS	52,946.....	749

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 the agency requested this matter be continued an additional month to submit a clarified position description form for this and the Media Administrator position for the Department of Revenue which would resolve remaining overlap issues between these positions.
- With regard to Item D, Executive Director Daniel Stralka reported that the agency has withdrawn its request.
- With regard to Item E, Executive Director Daniel Stralka reported that this position was established as a result of the separation of the Juvenile Justice agency from the Department of Corrections. Previously, these adult education responsibilities fell under the Superintendent for School District #428 position which was previously declared 4d(3) exempt in the Department of Corrections. With the creation of the new agency, the Superintendent's position was transferred to Juvenile Justice, and the current position was subsequently established as the principal policy developer and implementer for adult education programs at the Department of Corrections, reporting to its Director. For these reasons, staff recommended approval of this request.
- With regard to Item F, Executive Director Daniel Stralka reported that the agency has withdrawn its request.
- With regard to Item G, Executive Director Daniel Stralka reported that this position was established as the principal policy developer and implementer for the Immigrant Welcoming Center, a program established pursuant to Executive Order 2005-10. This position reports to the Secretary. For these reasons, staff recommended approval of this request.
- With regard to Item H, Executive Director Daniel Stralka reported that this position was responsible for hospital operations under the Department of Human Services Mental Health Division which is a significant programmatic responsibility of the agency encompassing 1800 residents at nine mental health centers. This position reports to the program director who reports to a statutory assistant director. For these reasons, staff recommended approval of this request.
- With regard to Item I, Executive Director Daniel Stralka reported that this position was the only Deputy Director position at the Illinois Arts Council reporting directly to the Executive Director. This position had significant principal programmatic responsibilities among all of the Illinois Arts Council programs and assumed the Executive Director's responsibilities in his absence. For these reasons, staff recommended approval of this request. It was noted that Executive Director Terry A. Scrogum attended the Commission meeting and made himself available to answer any inquiries regarding this request.

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- With regard to Item J, Executive Director Daniel Stralka reported that this position serves as the Bureau Chief for the Bureau of Land at the Illinois Environmental Protection Agency. The basic programmatic division of the Illinois Environmental Protection Agency is into three distinct service areas: Land, Air, and Water. This position reports to a Deputy Director who in turn reports to the Director; it is organizationally the same as the Bureau Chiefs for Air and Water which were previously granted 4d(3) exemptions, and has similar principal programmatic responsibilities. For these reasons, staff recommended approval of this request.
- With regard to Item K, Executive Director Daniel Stralka reported that this position is at the same organizational level of other Deputy General Counsels who were previously granted 4d(3) exemptions. Each of these Deputy General Counsels has significant policy responsibilities for a specific principal program area of the Department of Revenue, focused on complex legal issues unique to these principal program areas. With regard to this position, its principal program area is bankruptcy court proceedings with 6355 pending claims and \$18,000,000 collected in FY 2006. For these reasons, staff recommended approval of this request.
- With regard to Item L, Executive Director Daniel Stralka reported that the agency requested this exemption request be continued until next month's meeting.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL 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 approved on September 21, 2006:

Item E: Illinois Department of Corrections

Position Number: 40070-29-10-000-00-01
Position Title: Senior Public Service Administrator
Bureau/Division: Adult Education and Vocational Services
Functional Title: Chief Administrative Officer
Incumbent: None
Supervisor: Deputy Director of Support Services (reports to Director)
Location: Sangamon County

Item G: Illinois Department of Human Services

Position Number: 40070-10-12-100-10-01
Position Title: Senior Public Service Administrator
Bureau/Division: Assistant Secretary
Functional Title: Immigrant Welcoming Center Director
Incumbent: None
Supervisor: Assistant Secretary (reports to Secretary)
Location: Cook County

Item H: Illinois Department of Human Services

Position Number: 40070-10-76-100-00-01
Position Title: Senior Public Service Administrator
Bureau/Division: Mental Health
Functional Title: Bureau Chief of the Bureau of System Support
Incumbent: Nancy Staples
Supervisor: Director, Office of Mental Health (reports to the Assistant Secretary who in turn reports to the Secretary)
Location: Cook County

Item I: Illinois Arts Council

Position Number: 40070-50-90-200-00-01
Position Title: Senior Public Service Administrator
Bureau/Division: Programs
Functional Title: Deputy Director
Incumbent: Eliud Hernandez
Supervisor: Executive Director
Location: Cook County

Item J: Illinois Environmental Protection Agency

Position Number: 40070-46-15-000-00-01
Position Title: Senior Public Service Administrator
Bureau/Division: Bureau of Land
Functional Title: Bureau Chief, Bureau of Land
Incumbent: William Child
Supervisor: Deputy Director (reports to Director)
Location: Sangamon County

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Item K: Illinois Department of Revenue

Position Number: 40070-25-07-220-00-01
Position Title: Senior Public Service Administrator
Bureau/Division: Legal Services
Functional Title: Deputy General Counsel, Assistant Attorney General
Support Office
Incumbent: James D. Newbold
Supervisor: General Counsel (reports to Director)
Location: Cook County

The following 4d(3) exemption requests were continued to October 19, 2006:

Item C: Illinois Department of Revenue

Position Number: 37015-25-90-210-10-01
Position Title: Public Service Administrator
Bureau/Division: Lottery-Superintendent's Office
Functional Title: Communications Manager
Incumbent: None
Supervisor: Lottery Superintendent (reports to Director)
Location: Cook County

Item L: Illinois State Fire Marshal

Position Number: 40070-50-50-200-00-01
Position Title: Senior Public Service Administrator
Bureau/Division: Boiler and Pressure Vessel Safety
Functional Title: Director, Statewide Boiler and Pressure Vessel Safety Div.
Supervisor: Illinois State Fire Marshal
Location: Sangamon County

V. AMENDMENTS TO CLASS SPECIFICATIONS

- None submitted.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY CHAIRMAN KOLKER 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 EWELL, SECONDED BY COMMISSIONER PETERSON 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	RICHARDS	YES
PETERSON	YES	EWELL	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 9:30 a.m.

PRESENT

Chris Kolker, Chairman; George Richards, Raymond W. Ewell, Barbara J. Peterson, and Betty A. Bukraba, Commissioners; Daniel Stralka, Executive Director; and Andrew Barris (via conference call) 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	7/31/06	8/31/06	8/31/05
Agriculture	11	6	3
Arts Council	1	1	0
Central Management Services	2	4	5
Children and Family Services	8	5	7
Commerce and Economic Opportunity	2	1	1
Financial and Professional Regulation	5	2	0
Healthcare and Family Services	9	6	10
Historic Preservation	15	18	31
Human Rights Department	1	0	1
Human Services	3	2	0
Natural Resources	34	34	26
Property Tax Appeal Board	1	0	0
State Fire Marshal	0	0	2
State Police	0	1	0
State Retirement Systems	0	0	1
Transportation	53	78	11
Totals	145	158	98

Executive Director Daniel Stralka spoke with Scott Doubet, Bureau Chief at the Illinois Department of Transportation who explained that the increase in non-merit appointments was due to a temporary shortage of Emergency Traffic Patrol employees. There are presently 22 new employees in training and this increase will be alleviated by November, 2006 when their training is completed. Staff will continue to monitor the situation.

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

• **RULE VIOLATION APPEAL**

RV-80-05

Petitioner	Marcos De Leon	Appeal Date	1/15/05
Agency	DHS	Decision Date	8/29/06
Type	Rule Violation	ALJ	Daniel Stralka
Charge(s)	Age discrimination for purposes of promotion	Proposed Finding	No violation.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL 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 ESTABLISHED A PRIMA FACIE CASE OF AGE DISCRIMINATION; HOWEVER, THE RESPONDENT ESTABLISHED A LEGITIMATE, NON-DISCRIMINATORY REASON FOR THE PROMOTION DECISION AND THE PETITIONER WAS UNABLE TO CITE ANY EVIDENCE OF A DISCRIMINATORY REASON OR THAT THE DECISION IS UNWORTHY OF CREDENCE. THEREFORE IT IS THE FINDING THAT NO VIOLATION OF THE PERSONNEL CODE OR PERSONNEL RULES OCCURRED.

KOLKER	YES	RICHARDS	YES
PETERSON	YES	EWELL	YES
BUKRABA	YES		

X. STAFF REPORT

Executive Director Daniel Stralka reported that:

- Regarding the Commission's lease, Central Management Services has had discussions with Illinois National Bank about remaining at our current Springfield location. Illinois National Bank is exploring the feasibility of installing an elevator and has agreed to a five-year lease term.
- New computers will be installed in the Springfield office on September 28 and in the Chicago office on October 2.
- Assistant Executive Director Andrew Barris attended and assisted at the ICED (Interagency Committee on Employees with Disabilities) Annual Conference on September 12, 2006.
- The fiscal year 2007 Affirmative Action Report was submitted on September 6, 2006.

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- Contribution forms will be supplied for Commissioners to make charitable SECA (State and University Employees Combined Appeal) donations if they so choose. The deadline for donations is Thursday, November 9, 2006.
- Assistant Executive Director Andrew Barris made a brief presentation on amendments to the Open Meetings Act. He stated that the Open Meetings Act provides for open public meetings via video conference so long as there is a quorum of members and the members participating via video conference are located in a public building during their participation in the meeting.

XI. REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO OPEN MEETINGS ACT

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER RICHARDS AND THE MOTION ADOPTED 5-0 THAT AFTER REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO THE OPEN MEETINGS ACT, THE NEED FOR CONFIDENTIALITY STILL EXISTS AS TO ALL THOSE MINUTES.

XII. MEETING SCHEDULE FOR 2007

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER RICHARDS AND THE MOTION ADOPTED 5-0 TO APPROVE THE FOLLOWING MEETING SCHEDULE FOR 2007 AS PRESENTED.

January 18, 2007	Chicago		July 19, 2007	Chicago
February 15, 2007	Chicago		August 16, 2007	Chicago
March 15, 2007	Chicago		September 20, 2007	Chicago
April 19, 2007	Chicago		October 18, 2007	Chicago
May 17, 2007	Springfield		November 15, 2007	Springfield
June 21, 2007	Chicago		December 20, 2007	Chicago

XIII. ADMINISTRATIVE LAW JUDGE SEARCH

Chairman Chris Kolker reported to the Commission on the results of the search for a new Administrative Law Judge to hear the discharge appeals of Dawn DeFraties and Michael Casey. After discussion the following motion was made and adopted:

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER PETERSON AND THE MOTION ADOPTED 5-0 TO AUTHORIZE CHAIRMAN KOLKER TO ENTER INTO A CONTRACT AND SECURE THE SERVICES OF ATTORNEY ANTHONY DOS SANTOS TO SERVE AS ADMINISTRATIVE LAW JUDGE IN THE DISCHARGE APPEALS

OF DAWN DEFRAITIS AND MICHAEL CASEY. CHAIRMAN KOLKER IS FURTHER AUTHORIZED TO ENTER INTO THIS CONTRACT WITH ATTORNEY LISA COHEN IF SUCH AN AGREEMENT WITH ATTORNEY ANTHONY DOS SANTOS IS UNABLE TO BE SECURED FOR ANY REASON.

XIV. CONSIDERATION OF AMENDMENTS TO CIVIL SERVICE COMMISSION RULE 11 (ILLINOIS ADMINISTRATIVE CODE, TITLE 80, SECTION 1.142)

A copy of the proposed amendment to Civil Service Commission Rule 11 (80 Ill. Adm. Code 1.142) having previously been provided to the Commissioners, Executive Director Daniel Stralka made a brief presentation as to the history of the rule, the need for an amendment, and then provided an explanation as to the language of the proposed amendment. After discussion, the following motion was made and adopted:

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER BUKRABA AND THE MOTION ADOPTED 5-0 TO APPROVE THE PROPOSED AMENDMENT TO ITS RULES WHICH IS SET FORTH BELOW:

Section 1.142 Jurisdiction B Exemptions

(Subsection (a) replaces current subsections (a) and (b))

- ~~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), 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.~~

a) *The Civil Service Commission shall exercise its judgment when determining whether a position qualifies for exemption from Jurisdiction B under Section 4d3 of the Personnel Code. The Commission will consider any or all of the following factors inherent in the position and any others deemed relevant to the request for exemption when making this determination:*

- a. The amount and scope of principal policy making authority;*
- b. The amount and scope of principal policy administering authority;*
- c. The amount of independent authority to represent the agency, board or commission to individuals, legislators, organizations or other agencies relative to programmatic responsibilities;*
- d. The capability to bind the agency, board or commission to a course of action;*
- e. The nature of the program the position has principal policy responsibility for;*
- f. The placement of the position on the organizational chart of the agency, board or commission;*
- g. The mission, size and geographical scope of the organizational entity or program within the agency, board or commission the position is allocated or detailed to.*

b) The Commission may upon its own action after 30 days notice to the Director of Central Management Services or upon the recommendation of the Director of Central Management Services rescind the exemption of any position which no longer meets the requirements for exemption as set forth in subsection (a) of this Section. However, ~~withdrawal~~ *rescission* of exemption shall be approved after the Commission has determined that an adequate level of managerial control exists in exempt status which will insure responsive and accountable administrative control of the programs of the agency, board or commission.

c) For all positions currently exempt by action of the Commission, the Director of Central Management Services shall inform the Commission promptly in writing of all changes in ~~duties, responsibilities, organization, location, allocation, or identity~~ *essential functions, reporting structure, working title, work location, position title, position number or specialized knowledge, skills, abilities, licensure or certification.*

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- d) Prior to granting an exemption from Jurisdiction B *under Section 4d3 of the Personnel Code* the Commission will notify the incumbent of the position, if any, of its proposed action, whereupon the incumbent may appear at the Commission meeting at which such action is to be taken and present objections to such exemption *request*.

XV. ANNOUNCEMENT OF NEXT MEETING

Announcement of the next regular meeting to be held on Thursday, October 19, 2006 at 9:00 a.m. in the Commission's Chicago office.

XVI. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER PETERSON AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 10:33 A.M.