



2004-5

**EXECUTIVE ORDER TO TRANSFER CERTAIN ADMINISTRATIVE AND SUPPORT
FUNCTIONS OF THE ILLINOIS BUILDING COMMISSION TO THE CAPITAL
DEVELOPMENT BOARD**

WHEREAS, Article V, Section 11 of the Illinois Constitution authorizes the Governor to reassign functions or reorganize executive agencies that are directly responsible to him by means of executive order; and

WHEREAS, Section 3.2 of the Executive Reorganization Implementation Act, 15 ILCS 15/3.2, provides that "Reorganization" includes, in pertinent part (a) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency, and (b) the consolidation or coordination of the whole or any part of any other agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof; and

WHEREAS, the Capital Development Board and the Illinois Building Commission are executive agencies directly responsible to the Governor which exercise the rights, powers, duties and responsibilities derived from 20 ILCS 3105 et seq. and 20 ILCS 3918 et seq., respectively; and

WHEREAS, streamlining and consolidating some of the administrative and support functions of these agencies into a single agency offers the opportunity to eliminate redundancy, simplify the organizational structure of the Executive Branch, improve accessibility and accountability, provide more efficient use of specialized expertise and facilities, realize savings in administrative costs, promote more effective sharing of best practices and state of the art technology and realize other cost savings, among other things; and

WHEREAS, the Illinois Building Commission (i) serves as a forum to suggest resolution of conflicts between State agencies, or between a State agency and another entity that consents to the resolution forum, concerning State building requirements,

and (ii) reviews proposed State building requirement amendments and proposed legislation for conflicts with current State law or building requirements and makes recommendations concerning those amendments or laws to the proper authorities; and

WHEREAS, the aforementioned benefits can be achieved by transferring some of the administrative and support functions, including information technology, clerical, accounting, human resources and office space (the "Functions") of the Illinois Building Commission (the "Transferring Agency") to the Capital Development Board (the "Receiving Agency"); and

WHEREAS, the consolidation and streamlining of the Functions of the Transferring Agency to the Receiving Agency shall not impede, disrupt or impair in any fashion the independent and conflict resolution responsibilities and duties of the Transferring Agency as contemplated in 20 ILCS 3918 et seq.

THEREFORE, pursuant to the powers vested in me by Article V, Section 11 of the Illinois Constitution, I hereby order:

I. TRANSFER

Effective July 1, 2004, the powers, duties, rights and responsibilities related to the Functions of the Transferring Agency shall be transferred to the Receiving Agency. The statutory powers, duties, rights and responsibilities of the Transferring Agency associated with these Functions derive from 20 ILCS 3918 et seq.

II. EFFECT OF TRANSFER

The powers, duties, rights and responsibilities other than the Functions vested in the Transferring Agency shall not be affected by this Executive Order, including the Transferring Agency's ability to serve as an independent forum to suggest resolution of conflicts between State agencies, or between a State agency and another entity that consents to the resolution forum, concerning State building requirements, except that the Functions necessary to the operation of the Transferring Agency shall be provided by the Receiving Agency.

- A. The staff of the Transferring Agency engaged in the performance of the Functions shall be transferred to the Receiving Agency. The status and rights of such employees under the Personnel Code shall not be affected

by the transfer. The rights of the employees, the State and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement or annuity plan shall not be affected by this Executive Order. Personnel under the Transferring Agency affected by this Executive Order shall continue their service within the Receiving Agency.

- B. All books, records, papers, documents, property (real and personal), contracts, and pending business pertaining to the powers, duties, rights and responsibilities transferred by this Executive Order from the Transferring Agency to the Receiving Agency, including but not limited to material in electronic or magnetic format and necessary computer hardware and software, shall be delivered to the Receiving Agency.
- C. All unexpended appropriations and balances and other funds available for use in connection with any of the Functions shall be transferred for use by the Receiving Agency for the Functions pursuant to the direction of the Governor. Unexpended balances so transferred shall be expended only for the purpose for which the appropriation was originally made.

III. SAVINGS CLAUSE

- A. The powers, duties, rights and responsibilities related to the Functions and transferred from the Transferring Agency by this Executive Order shall be vested in and shall be exercised by the Receiving Agency. Each act done in exercise of such powers, duties, rights and responsibilities shall have the same legal effect as if done by the Transferring Agency or its divisions, officers or employees.
- B. Every person or entity shall be subject to the same obligations and duties and any penalties, civil or criminal, arising therefrom, and shall have the same rights arising from the exercise of such powers, duties, rights and responsibilities as had been exercised by the Transferring Agency or its divisions, officers or employees.
- C. Every officer of the Receiving Agency shall, for any offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by

existing law for the same offense by any officer whose powers or duties were transferred under this Executive Order.

- D. Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person to or upon the Transferring Agency in connection with any of the Functions transferred by this Executive Order, the same shall be made, given, furnished or served in the same manner to or upon the Receiving Agency.
- E. This Executive Order shall not affect any act done, ratified or canceled or any right occurring or established or any action or proceeding had or commenced in an administrative, civil or criminal cause regarding the Functions of the Transferring Agency before this Executive Order takes effect; such actions or proceedings may be prosecuted and continued by the Receiving Agency.
- F. Any rules of the Transferring Agency that relate to the Functions, are in full force on the effective date of this Executive Order and have been duly adopted by the Transferring Agency shall become the rules of the Receiving Agency for the Functions. This Executive Order shall not affect the legality of any such rules in the Illinois Administrative Code. Any proposed rulings filed with the Secretary of State by the Transferring Agency that are pending in the rulemaking process on the effective date of this Executive Order and pertain to the Functions transferred, shall be deemed to have been filed by the Receiving Agency. As soon as practicable hereafter, the Receiving Agency shall revise and clarify the rules transferred to it under this Executive Order to reflect the reorganization of rights, powers and duties affected by this Order, using the procedures for recodification of rules available under the Illinois Administrative Procedures Act, except that existing title, part, and section numbering for the affected rules may be retained. The Receiving Agency may propose and adopt under the Illinois Administrative Act such other rules of the reorganized agencies that will now be administered by the Receiving Agency.

IV. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Rod R. Blagojevich, Governor

Issued by Governor: March 31, 2004
Filed with Secretary of State: April 1, 2004