



FILED
INDEX DEPARTMENT

MAR 1 0 2009

IN THE OFFICE OF
SECRETARY OF STATE

EXECUTIVE ORDER

Number 2 (2009)

EXECUTIVE ORDER TO REORGANIZE AGENCIES BY THE TRANSFER OF CERTAIN PROGRAMS OF THE DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES TO THE DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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 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 Department of Commerce and Economic Opportunity and the Department of Healthcare and Family Services are executive agencies directly responsible to the Governor which exercise the rights, powers, duties and responsibilities derived from 20 ILCS 605 *et seq.*, and 20 ILCS 2205 *et seq.*, respectively; and

WHEREAS, The Department of Healthcare and Family Services administers the Low Income Home Energy Assistance Program ("LIHEAP") and the Illinois Home Weatherization Assistance Program (collectively, with LIHEAP, "LIHEAP/Weatherization") which incorporate income assistance, home weatherization, and other measures to ensure that Illinois residents have access to affordable energy services, and include services and assistance provided by local community action agencies or not-for-profit agencies throughout the state; and

WHEREAS, the Department of Commerce and Economic Opportunity is the lead state agency responsible for improving Illinois' competitiveness in the global economy, and is authorized under the Energy Conservation and Coal Development Act, 20 ILCS 1105/1 *et seq.*, as amended and supplemented, to administer on behalf of the State any energy programs and activities under federal law, regulations or guidelines; and

WHEREAS, the LIHEAP/Weatherization Programs are, necessarily, integrally related to both the economic development and energy assistance policies of the State of Illinois managed by the Department of Commerce and Economic Opportunity; and

WHEREAS, the transfer and consolidation of the LIHEAP/Weatherization Programs 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 aforementioned benefits of consolidation can be achieved by transferring the LIHEAP/Weatherization Programs from the Department of Healthcare and Family Services to the Department of Commerce and Economic Opportunity; and

WHEREAS, for purposes of this Executive Order, the LIHEAP/Weatherization Programs are sometimes referred to collectively as the "Programs," the Department of Commerce and Economic Opportunity is sometimes referred to as the "Receiving Agency", and the Department of Healthcare and Family Services is sometimes referred to as the "Transferring Agency;" and

WHEREAS, the specific functions, as well as the staff performing those functions, of the LIHEAP/Weatherization Programs shall be transferred to the Department of Commerce and Economic Opportunity by way of an interagency agreement between the Department of Commerce and Economic Opportunity and the Department of Healthcare and Family Services (the "LIHEAP/Weatherization Interagency Agreement") in accordance with the objectives of this Executive Order.

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

I. TRANSFER

- A. Effective March 24, 2009, or as soon thereafter as practicable, the powers, duties, rights and responsibilities related to the LIHEAP/Weatherization Programs shall be transferred from the Department of Healthcare and Family Services to the Department of Commerce and Economic Opportunity pursuant to the LIHEAP/Weatherization Interagency Agreement. The statutory powers, duties, rights and responsibilities of the Transferring Agency associated with these Programs derive from 20 ILCS 2205/1 *et seq.*, 20 ILCS 625/1 *et seq.*, 220 ILCS 5/8-206, 305 ILCS 20/1 *et seq.* and 305 ILCS 22/1 *et seq.*
- B. Whenever any provision of an Executive Order or any Act or section thereof transferred by this Executive Order provides for membership of the Director of the Transferring Agency on any council, commission, board or other entity relating to the Programs, the Director of the Receiving Agency or his designee(s) shall serve in that place. If more than one such person is required by law to serve on any council, commission, board or other entity, an equivalent number of representatives of the Receiving Agency shall so serve.

II. EFFECT OF TRANSFER

The powers, duties, rights and responsibilities vested in the Programs shall not be affected by this Executive Order, except that all management and staff support or other resources necessary to the operations of the Programs shall be provided by the Receiving Agency.

- A. The status and rights of employees in the Transferring Agency engaged in the performance of the functions of the Programs shall not be affected by the transfer. The rights of the employees, the State of Illinois 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 related to the Programs and 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; provided, however, that the delivery of such information shall not violate any applicable confidentiality constraints.
- C. All unexpended appropriations and balances and other funds available for use in connection with any of the Programs shall be transferred for use by the Receiving Agency for the Programs 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

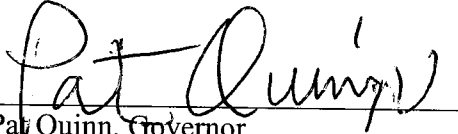
- A. The powers, duties, rights and responsibilities related to the Programs and transferred from the Transferring Agency by this Executive Order shall be vested in and shall be exercised by the Receiving Agency. Each act done in exercise of such powers, duties, rights and responsibilities shall have 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 every 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 of the Programs 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 Programs before this Executive Order takes effect; such actions or proceedings may be defended, prosecuted and continued by the Receiving Agency.
- F. Any rules of the Transferring Agency that relate to the Programs which 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 Programs. 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 them under this Executive Order to reflect the reorganization of rights, power and duties effected by this Executive 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.


Pat Quinn, Governor

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