STATE OF ILLINOIS

EXECUTIVE DEPARTMENT

SPRINGFIELD, ILLINOIS

FILED
INDEX DEPARTMENT
MAR 3 1 2017
IN THE OFFICE OF
SECRETARY OF STATE

EXECUTIVE ORDER **2017-03**

EXECUTIVE ORDER TRANSFERRING CERTAIN FUNCTIONS FROM THE DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY TO THE DEPARTMENT OF NATURAL RESOURCES AND THE ENVIRONMENTAL PROTECTION AGENCY

WHEREAS, the mission of the Illinois Department of Commerce and Economic Opportunity ("DCEO") is to provide economic opportunities for businesses, entrepreneurs, and residents in order to improve the quality of life for all Illinoisans;

WHEREAS, the Office of Energy and Recycling (the "Energy and Recycling Office") and the Office of Coal Development (the "Coal Office", and collectively with the Energy and Recycling Office, the "Offices") are two departments housed within DCEO; and

WHEREAS, the programs administered by the Energy and Recycling Office aim to reduce energy consumption and to promote clean and renewable energy; and

WHEREAS, the Coal Office is responsible for promoting and marketing Illinois coal domestically and internationally; and

WHEREAS, the Illinois Environmental Protection Agency ("EPA") is responsible for safeguarding environmental quality, consistent with the social and economic needs of the State, so as to protect health, welfare, property, and the quality of life for all Illinoisans and safeguarding the State's natural resources from pollution to provide a healthy environment for its citizens; and

WHEREAS, the Illinois Department of Natural Resources ("DNR") is responsible for managing, conserving, and protecting Illinois' natural, recreational and cultural resources, furthering the public's understanding and appreciation of those resources, and promoting the education, scientific understanding, and public safety of Illinois' natural resources for present and future generations; and

WHEREAS, the respective purposes, missions, and activities of the Offices will be better realized if the functions of each Office are housed in State agencies whose purpose, mission, and activities complement those of each respective Office; and

WHEREAS, the promotion and marketing of coal, a natural resource, would complement and enhance DNR's mission to manage, conserve, and protect Illinois' natural resources; and

WHEREAS, programs aimed to reduce energy consumption and to promote clean and renewable energy would complement and enhance EPA's mission to safeguard environmental quality and reduce pollution throughout Illinois; and

WHEREAS, transferring the functions of the Energy and Recycling Office to EPA and transferring the functions of the Coal Office to DNR will 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 overall cost savings;

THEREFORE, I, Bruce Rauner, Governor of Illinois, by virtue of the executive authority vested in me by Section 8 and Section 11 of Article V of the Constitution of the State of Illinois, do hereby order as follows:

I. TRANSFERRING FUNCTIONS OF ENERGY AND RECYCLING OFFICE TO EPA

The functions, employees, property, and funds of the Energy and Recycling Office, as set forth in Section III of this Executive Order, are hereby transferred from DCEO to EPA as of July 1, 2017.

II. TRANSITION TO EPA

Beginning on the effective date of this Executive Order, DCEO and EPA shall work cooperatively to prepare for the transfer of functions, employees, property, and funds pursuant to Section III of this Executive Order, and to carry out all other actions required to give effect to such transfers, as of July 1, 2017. DCEO shall provide EPA with access to personnel and other resources necessary to accomplish such transition. During the transition period:

1. Under the direction of the Governor, the Director of EPA, in consultation with DCEO and labor organizations representing the affected employees, shall identify each position and employee who is engaged in the performance of functions transferred to EPA or engaged in the administration of a law the administration of which is transferred to EPA, to be transferred to EPA pursuant to Section III(1) of this Executive Order. The Director of EPA shall ensure compliance with all applicable provisions of the Personnel Code and collective bargaining agreements, including providing any notices required thereunder within the applicable time periods.

2. Under the direction of the Governor, the Director of EPA, in consultation with DCEO, shall identify personnel records, documents, books, correspondence, and other property, both real and personal, affected by the transfer to EPA pursuant to Section III(2) of this Executive Order. Such property may include contracts pertaining to the functions transferred to EPA.

3. Under the direction of the Governor, the Director of the Governor's Office of Management and Budget, in consultation with the respective Directors of EPA and DCEO, shall identify the unexpended balances of Fiscal Year 2017 and Fiscal Year 2018 appropriations and other funds, or the relevant portions thereof, to be transferred to EPA pursuant to Section III(3) of this Executive Order.

III. TRANSFER OF FUNCTIONS TO EPA

As of July 1, 2017, the functions, duties, rights, and responsibilities related to the Energy and Recycling Office shall be transferred from DCEO to EPA. These functions derive from the statutes set forth on Exhibit A to this Executive Order. In connection with such transfer, as of July 1, 2017:

1. Each position and employee who is engaged in the performance of functions transferred to EPA, or engaged in the administration of a law the administration of which is transferred to EPA (as identified pursuant to Section II(1) of this Executive Order), and the employee in each such position, shall be transferred to EPA pursuant to the provisions of any applicable collective bargaining agreement. The status and rights of any transferred employee, the State, and its agencies under the Personnel Code and applicable collective bargaining rights or under any pension, retirement, or annuity plan shall not be affected by this reorganization.

2. All personnel records, documents, books, correspondence, and other property, both real and personal, affected by the reorganization (as identified pursuant to Section II(2) of this Executive Order) shall be delivered and transferred to EPA or to the State Archives.

3. The unexpended balances of Fiscal Year 2017 and Fiscal Year 2018 appropriations and other funds available for use by DCEO in connection with the functions transferred to EPA or the relevant portions thereof (as identified pursuant to Section II(3) of this Executive Order and

deemed necessary by the Governor) shall be transferred to EPA and expended for the purposes for which the appropriations or other funds were originally made or given to DCEO.

4. With respect to DCEO, this reorganization shall not affect (i) the composition of any multi-member board, commission, or authority, (ii) the manner in which any official of the agency is appointed, (iii) whether the nomination or appointment of any official of the agency is subject to the advice and consent of the Senate, (iv) any eligibility or qualification requirements pertaining to service as an official of the agency, or (v) the service or term of any incumbent official serving as of the effective date of this Executive Order.

5. Whenever any previous Executive Order or any statute provides for membership on any board, commission, authority, or other entity by a representative or designee of DCEO with responsibility for the functions transferred to EPA, the Director of EPA shall designate the same number of representatives or designees of EPA.

IV. TRANSFERRING FUNCTIONS OF COAL OFFICE TO DNR

The functions, employees, property, and funds of the Coal Office, as set forth in Section VI of this Executive Order, are hereby transferred from DCEO to DNR as of July 1, 2017.

V. TRANSITION TO DNR

Beginning on the effective date of this Executive Order, DCEO and DNR shall work cooperatively to prepare for the transfer of functions, employees, property, and funds pursuant to Section VI of this Executive Order, and to carry out all other actions required to give effect to such transfers, as of July 1, 2017. DCEO shall provide DNR with access to personnel and other resources necessary to accomplish such transition. During the transition period:

1. Under the direction of the Governor, the Director of DNR, in consultation with DCEO and labor organizations representing the affected employees, shall identify each position and employee who is engaged in the performance of functions transferred to DNR or engaged in the administration of a law the administration of which is transferred to DNR, to be transferred to DNR pursuant to Section VI(1) of this Executive Order. The Director of DNR shall ensure compliance with all applicable provisions of the Personnel Code and collective bargaining agreements, including providing any notices required thereunder within the applicable time periods.

2. Under the direction of the Governor, the Director of DNR, in consultation with DCEO, shall identify personnel records, documents, books, correspondence, and other property, both real and personal, affected by the transfer to DNR pursuant to Section VI(2) of this Executive Order. Such property may include contracts pertaining to the functions transferred to DNR.

3. Under the direction of the Governor, the Director of the Governor's Office of Management and Budget, in consultation with the respective Directors of DNR and DCEO, shall identify the unexpended balances of Fiscal Year 2017 and Fiscal Year 2018 appropriations and other funds, or the relevant portions thereof, to be transferred to DNR pursuant to Section VI(3) of this Executive Order.

VI. TRANSFER OF FUNCTIONS TO DNR

As of July 1, 2017, the functions, duties, rights, and responsibilities related to the Coal Office shall be transferred from DCEO to DNR. These functions derive from the statutes set forth on Exhibit B to this Executive Order. In connection with such transfer, as of July 1, 2017:

1. Each position and employee who is engaged in the performance of functions transferred to DNR, or engaged in the administration of a law the administration of which is transferred to DNR (as identified pursuant to Section V of this Executive Order), and the employee in each such position, shall be transferred to DNR pursuant to the provisions of any applicable collective bargaining agreement. The status and rights of any transferred employee, the State, and its agencies under the Personnel Code and applicable collective bargaining rights or under any pension, retirement, or annuity plan shall not be affected by this reorganization.

2. All personnel records, documents, books, correspondence, and other property, both real and personal, affected by the reorganization (as identified pursuant to Section V of this Executive Order) shall be delivered and transferred to DNR or to the State Archives.

3. The unexpended balances of Fiscal Year 2017 and Fiscal Year 2018 appropriations and other funds available for use by DCEO in connection with the functions transferred to DNR or the relevant portions thereof (as identified pursuant to Section V of this Executive Order and deemed necessary by the Governor) shall be transferred to DNR and expended for the purposes for which the appropriations or other funds were originally made or given to DCEO.

4. With respect to DCEO, this reorganization shall not affect (i) the composition of any multi-member board, commission, or authority, (ii) the manner in which any official of the agency is appointed, (iii) whether the nomination or appointment of any official of the agency is subject to the advice and consent of the Senate, (iv) any eligibility or qualification requirements pertaining to service as an official of the agency, or (v) the service or term of any incumbent official serving as of the effective date of this Executive Order.

5. Whenever any previous Executive Order or any statute provides for membership on any board, commission, authority, or other entity by a representative or designee of DCEO with responsibility for the functions transferred to DNR, the Director of DNR shall designate the same number of representatives or designees of DNR.

VII. EEPS PROGRAM RETAINED IN DCEO

The Energy and Recycling Office is currently responsible for administering a portfolio of electric and natural gas efficiency programs that includes incentives and services for public sector equipment upgrades, low income housing improvements, and market transformation technical assistance and education programs pursuant to 220 ILCS 5/8-103 and 220 ILCS 8/104(a)-(l), (n) (the "EEPS Program"). DCEO will continue to perform all actions necessary to fulfill remaining obligations under the EEPS Program.

VIII. ABOLISHMENT OF DCEO OFFICES

After the transfer, the Offices within DCEO (the "Legacy Offices") shall no longer retain any functions set forth in Exhibits A and B, because all such functions shall be transferred pursuant to this Executive Order. Therefore, the Director of DCEO shall abolish the Legacy Offices as soon as practicable after July 1, 2017.

IX. INCONSISTENT ACTS

From the effective date of this reorganization, and as long as such reorganization remains in effect, the operation of any prior act of the General Assembly inconsistent with this reorganization is suspended to the extent of the inconsistency.

X. REPORT TO THE GENERAL ASSEMBLY

Each of EPA and DNR shall provide a report to the General Assembly not later than December 31, 2017 and annually thereafter for three years, that includes an analysis of the effect of the reorganization related to their agency on State government and the Illinois taxpayers. The report shall also include recommendations for further legislation relating to the implementation of the reorganization. A copy of such report shall be filed with the Speaker, the Minority Leader, and the Clerk of the House of Representatives; the President, the Minority Leader, and the Secretary of the Senate; the Legislative Research Unit; and the State Government Report Distribution Center for the General Assembly.

XI. SAVINGS CLAUSE

1. The rights, powers, duties, and functions transferred to each of EPA and DNR, respectively, by this Executive Order shall be vested in, and shall be exercised by, EPA and DNR, respectively. Each act done in exercise of such rights, powers, duties, and functions shall have the same legal effect as if done by DCEO. Every person shall be subject to the same obligations and duties and to the associated penalties, if any, and shall have the same rights

arising from the exercise of these obligations and duties as if exercised subject to DCEO or the officers and employees of DCEO.

2. This Executive Order shall not affect any act undertaken, ratified, or cancelled or any right occurring or established or any action or proceeding commenced in an administrative, civil, or criminal case before this Executive Order takes effect, but these actions or proceedings may be prosecuted and continued by the successor agency in cooperation with another agency, if necessary.

3. This Executive Order shall not affect the legality of any rules in the Illinois Administrative Code that are in force on the effective date of this Executive Order, which rules have been duly adopted by DCEO. Any rules, regulations, and other agency actions affected by the reorganization shall continue in effect and be transferred together with the transfer of functions. If necessary, however, each of EPA and DNR shall propose, adopt, or repeal rules, rule amendments, and rule recodifications as appropriate to effectuate this Executive Order. These rule modifications shall coincide with, if applicable, the respective transfer of functions to EPA and DNR.

4. Whenever reports or notices are now required to be made or given or paper or documents furnished or served by any person in regard to the functions transferred from DCEO to EPA and DNR, respectively, pursuant to this Executive Order, the same shall be made, given, furnished, or served in the same manner to or upon EPA and DNR, respectively.

5. This Executive Order does not contravene, and shall not be construed to contravene, any federal law, State statute (except as provided in Section IX), or collective bargaining agreement.

XII. PRIOR EXECUTIVE ORDERS

This Executive Order supersedes any contrary provision of any other prior Executive Order.

XIII. SEVERABILITY CLAUSE

If any part of this Executive Order is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

XIV. FILINGS

This Executive Order shall be filed with the Secretary of State. A copy of this Executive Order shall be delivered to the Secretary of the Senate and to the Clerk of the House of Representatives and, for the purpose of preparing a revisory bill, to the Legislative Reference Bureau.

XV. EFFECTIVE DATE

Provided that neither house of the General Assembly disapproves of this Executive Order by the record vote of a majority of the members elected, this Executive Order shall take effect 60 days after its delivery to the General Assembly.

Bruce Rauner

Bruce Rauner, Governor

Issued by Governor: March 31, 2017
Filed with Secretary of State: March 31, 2017

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EXHIBIT A
TO EXECUTIVE ORDER 2017-03

Statutes from which Energy and Recycling Office Functions Derive:
20 ILCS 605/605-347
20 ILCS 627/1 et. seq.
20 ILCS 687/6-1 et. seq.
20 ILCS 689/1 et. seq.
20 ILCS 896/20
20 ILCS 1115/4 - § 5
20 ILCS 3125/1 et seq.
20 ILCS 3954/15 - § 20
30 ILCS 105/8.14
30 ILCS 710/2-1 - § 2-4
30 ILCS 725/1 et. seq.
105 ILCS 5/10-20.19(c), § 34-18.15
220 ILCS 5/8-104(m)
220 ILCS 5/16-111.1
410 ILCS 46/40
415 ILCS 5/6.1, §21.6(d), §22.15, §22.16b, §22.23, §55, §55.3, §55.6, §55.7, §58.14a, §58.15(B)
415 ILCS 15/7, §8, §8.5
415 ILCS 20/1 et seq.
415 ILCS 80/1 et. seq.
415 ILCS 110/2001 et. seq.
415 ILCS 120/15, § 25, § 31, § 32
415 ILCS 130/20(b)
415 ILCS 155/10
815 ILCS 355/1 et. seq.
815 ILCS 440/1 et. seq.

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EXHIBIT B
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Statutes from which Coal Office Functions Derive:
20 ILCS 1105/1 et. seq.
20 ILCS 1108/1 et. seq.
20 ILCS 1110/1 et. seq.