

January 16, 2009

MINUTES  
ILLINOIS CIVIL SERVICE COMMISSION  
January 16, 2009

I. OPENING OF MEETING AT 11:10 A.M. AT 160 NORTH LASALLE STREET,  
SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Barbara J. Peterson, and Betty A. Bukraba, Commissioners; Daniel Stralka, Executive Director; Andrew Barris (via telephone), Assistant Executive Director; Jan Oncken, Illinois Department of Central Management Services; and Bridget Devlin, Sam Sandoval and Therese McMahon, Illinois Department of Commerce and Economic Opportunity.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD DECEMBER 18, 2008

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 3-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 18, 2008.**

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 .....	165.....	9
Agriculture .....	450.....	16
Arts Council.....	21.....	2
Capitol Development Board .....	36.....	0
Central Management Services .....	1,485.....	107
Children and Family Services .....	3,193.....	49
Civil Service Commission .....	4.....	0
Commerce & Economic Opportunity .....	414.....	67
Commerce Commission.....	74.....	0
Corrections.....	11,675.....	115
Criminal Justice Authority .....	57.....	6
Deaf and Hard of Hearing Comm. ....	7.....	1
Developmental Disabilities Council .....	10.....	1
Emergency Management Agency .....	94.....	5
Employment Security.....	1,739.....	25
Environmental Protection Agency .....	984.....	19
Financial & Professional Regulation .....	745.....	50
Guardianship and Advocacy .....	108.....	8
Healthcare and Family Services.....	2,502.....	29
Historic Preservation Agency .....	233.....	12
Human Rights Commission .....	13.....	2
Human Rights Department .....	149.....	10
Human Services .....	14,569.....	76
Investment Board.....	4.....	2
Juvenile Justice .....	1,172.....	20
Labor.....	81.....	7
Labor Relations Board Educational .....	13.....	2
Labor Relations Board State .....	20.....	2
Law Enforcement Training & Standards Bd.....	20.....	1
Medical District Commission .....	2.....	0
Military Affairs .....	127.....	3
Natural Resources .....	1,418.....	24
Pollution Control Board.....	19.....	2
Prisoner Review Board .....	20.....	0
Property Tax Appeal Board .....	20.....	1
Public Health.....	1,139.....	43
Revenue .....	2,124.....	70
State Fire Marshal .....	150.....	12
State Police .....	1,421.....	6
State Police Merit Board.....	6.....	1
State Retirement Systems .....	84.....	2
Transportation.....	2,841.....	0
Veterans' Affairs.....	1,119.....	7
Workers' Compensation Commission .....	176.....	10
<b>TOTALS .....</b>	<b>50,703.....</b>	<b>824</b>

**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.

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**C. Requests for 4d(3) Exemption**

Commissioner Raymond W. Ewell arrived at 11:15 a.m.

- As to Item C, Executive Director Daniel Stralka reported that this request is for the Associate Deputy Director of Residential Monitoring for the Illinois Department of Children and Family Services. This request was continued last month at the Commission's suggestion for the agency to review the reporting structure and possibly clarify the position description in response to Staff's concerns. The agency has requested another continuance as it has not completed its revision to the position description and Staff concurs with this request. The incumbent has indicated he intends to be present at February's meeting and hopes to be able to address the Commission at that time.
- As to Item D, Executive Director Stralka reported that this request is for the Managing Director of Equal Opportunity Compliance for the Illinois Department of Commerce and Economic Opportunity, a position that reports to the agency Director. This is a somewhat unique EEO position in that it has internal equal employment opportunity responsibilities similar to those of positions in other state agencies, some of which have previously been declared 4d(3) exempt, as well as external equal employment opportunity responsibilities due its role as the Equal Opportunity Officer under the Federal Workforce Investment Act, otherwise known as the WIA. The agency monitors 26 local workforce investment areas under the WIA where people can receive services that help prepare them for employment. There are also internet based sites that do likewise. Together, there are over 28,000 constituents enrolled in the Workforce Investment Act system statewide. The WIA mandates that the state establish a "senior level" Equal Opportunity Officer to ensure that these constituents are free from discriminatory practices in accessing these programs. The responsibilities are similar to those of a state EEO officer. This position has enforcement capabilities that include the authority not only to recommend but also to mandate training, discipline or even cutting off funding to the offending entity.

With regard to this request, the designated state Equal Opportunity Officer is an employee who reports to this position and for which the agency is not seeking 4d(3) exemption. The agency has explained that the impetus for this request was a determination by the Department of Labor that making a Deputy General Counsel the WIA Equal Opportunity Officer may not be in compliance with the law in that it creates a conflict or the appearance of a conflict since the attorney's responsibilities to the agency may conflict with his ability to independently investigate claims of discrimination. Because of that, the agency created this position which has all agency EEO responsibilities under it, and the position's state responsibilities do not create the conflict that the Deputy General Counsel position had, so it is in compliance with the WIA. This position also reports to the Director and so it has significant independent decision-making responsibilities in carrying out both its state responsibilities and WIA responsibilities. The overall operational monitoring of the WIA program is done by a separate position,

the Deputy Director for the Bureau of Workforce Development. With that explanation, the requested position directs the non-discrimination program defined by statute – the unusual twist here being that the program is defined by federal law – which mandates a “senior level” position and it makes decisions in both the determination and execution of EEO policy within the agency which are subject to reversal only by the Director. For these reasons, Staff recommended approval. Bridget Devlin, Human Resource Manager, confirmed the accuracy of these representations and noted that this position is not federally funded.

- As to Item E, Executive Director Stralka reported that this request is for the Policy Advisor to the Director for the Northern Region, a position that reports to the agency Director. There is a companion position to this requested position that was first granted 4d(3) exemption in April 2003. Its position description was clarified in December last year to essentially copy this position’s responsibilities, but for the Central and Southern Regions of the Department of Corrections.

This position – as well as its companion position – participate in the planning and programming of agency activities at the highest level, interacting with both the Governor’s Office to ensure that its agenda is being effectuated at the agency level and also with agency leadership in evaluating and implementing such high-level decisions such as moving and closing Department of Correction facilities. While there are a few other policy based positions that are 4d(3) exempt at the agency, none of them have the amount of interaction with the Governor’s Office that these two have. In short, this position has significant input into the development of the Governor’s Office agenda for the Department of Corrections in its designated geographic area and then participates in determining the courses of action the agency takes to implement it. For these reasons, Staff recommended approval.

**IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 4-0 TO GRANT AND CONTINUE THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:**

**The following 4d(3) exemption requests were granted on January 16, 2009:**

**D. Illinois Department of Commerce and Economic Opportunity**

Position Number	40070-42-00-005-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Equal Opportunity Monitoring and Compliance
Functional Title	Managing Director, Equal Opportunity Compliance
Incumbent	Vacant
Supervisor	Director
Location	Sangamon County

**E. Illinois Department of Corrections**

Position Number	40070-29-00-000-06-02
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Policy Advisor for the Northern Region
Incumbent	Vacant
Supervisor	Director
Location	Cook County

**The following 4d(3) exemption request was continued on January 16, 2009:**

**C. Illinois Department of Children and Family Services**

Position Number	40070-16-13-700-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Residential Monitoring
Functional Title	Associate Deputy Director of Residential Monitoring
Incumbent	Norman Brown
Supervisor	Deputy Director of Monitoring/Quality Assurance, who reports to Chief of Staff, who reports to the Director
Location	Cook County

V. CLASS SPECIFICATIONS

- None submitted.

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 4-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.**

VI. MOTION TO GO INTO EXECUTIVE SESSION

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE THE MOTION ADOPTED 4-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.**

<b>KOLKER</b>	<b>YES</b>	<b>EWELL</b>	<b>YES</b>
<b>PETERSON</b>	<b>YES</b>	<b>DALIANIS</b>	
<b>BUKRABA</b>	<b>YES</b>		

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 11:58 a.m.

PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, and Betty A. Bukraba, Commissioners; Daniel Stralka, Executive Director; Andrew Barris (via telephone), Assistant Executive Director.

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	11/30/08	<b>12/31/08</b>	12/31/07
Agriculture	1	<b>0</b>	0
Central Management Services	2	<b>2</b>	4
Children and Family Services	5	<b>3</b>	4
Employment Security	7	<b>5</b>	0
Healthcare and Family Services	11	<b>9</b>	6
Historic Preservation	0	<b>0</b>	2
Human Services	1	<b>0</b>	3
Investment Board	1	<b>0</b>	0
Natural Resources	13	<b>14</b>	23
State Police	1	<b>1</b>	0
State Retirement Systems	1	<b>0</b>	0
Transportation	6	<b>17</b>	45
Veteran's Affairs	11	<b>2</b>	1
Workers' Compensation Commission	6	<b>5</b>	0
Totals	66	<b>58</b>	88

IX. INTERLOCUTORY APPEALS

• DISCHARGE

DA-8-09

Employee	Gina P. Yurevich	Appeal Date	09/02/08
Agency	DHS	Decision Date	12/30/08
Type	Discharge	ALJ	Andrew Barris
Issue	Motion to Dismiss for no jurisdiction	Recommended Decision	Grant Motion to Dismiss.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED THAT THE ADMINISTRATIVE LAW JUDGE FOUND A QUESTION OF LAW, FACT, OR POLICY WHICH IF RESOLVED BY THE COMMISSION WOULD MATERIALLY ADVANCE THE RESOLUTION OF THE DISPUTE. THE COMMISSION FURTHER FINDS THAT YUREVICH WAS A TRAINEE AT THE TIME OF HER DISCHARGE AND WAS NOT CERTIFIED UNDER JURISDICTION B. AN EMPLOYEE MUST BE CERTIFIED UNDER JURISDICTION B IN ORDER FOR THE CIVIL SERVICE COMMISSION TO HAVE JURISDICTION OVER ANY DISCHARGE APPEAL MADE BY THAT EMPLOYEE. IN ACCORDANCE THEREWITH, THE DECISION OF THE ADMINISTRATIVE LAW JUDGE TO GRANT THE MOTION TO DISMISS IS AFFIRMED AND ADOPTED.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	
BUKRABA	YES		

• DISCHARGE

DA-14-09

Employee	Gail D. Lemon	Appeal Date	10/22/08
Agency	DVA	Decision Date	01/02/09
Type	Discharge	ALJ	Daniel Stralka
Issue	Motion to Dismiss for no jurisdiction	Recommended Decision	Grant Motion to Dismiss.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED THAT THE ADMINISTRATIVE LAW JUDGE FOUND A QUESTION OF LAW, FACT, OR POLICY WHICH IF RESOLVED BY THE COMMISSION WOULD MATERIALLY ADVANCE THE RESOLUTION OF THE DISPUTE. THE COMMISSION FURTHER FINDS THAT LEMON DID NOT COMPLETE THE NECESSARY SIX MONTH PROBATIONARY PERIOD



**TO ACHIEVE THE STATUS OF A CERTIFIED EMPLOYEE SUBJECT TO JURISDICTION B, AND THE CIVIL SERVICE COMMISSION IS WITHOUT JURISDICTION TO HEAR HER DISCHARGE APPEAL. IN ACCORDANCE THEREWITH, THE DECISION OF THE ADMINISTRATIVE LAW JUDGE TO GRANT THE MOTION TO DISMISS IS AFFIRMED AND ADOPTED.**

**KOLKER            YES                            EWELL            YES**  
**PETERSON        YES                            DALIANIS**  
**BUKRABA         YES**

**X.    PUBLICLY ANNOUNCED DECISION RESULTING FROM APPEAL**

**•    SUSPENSION**

**S-38-08**

Employee	Leo Padzunus	Appeal Date	03/27/08
Agency	DHS	Decision Date	01/02/09
Type	Suspension	ALJ	Daniel Stralka
Charge(s)	Refusal of mandated overtime	Recommended Decision	Charges are proven; 20-day suspension is warranted.

**IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 4-0, THE MOTION ADOPTED TO MODIFY AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGES FOR A 20-DAY SUSPENSION (TOTALING MORE THAN 30 DAYS IN A 12 MONTH PERIOD) HAVE BEEN PROVEN AND WARRANT SAID SUSPENSION FOR THE REASONS SET FORTH IN THE RECOMMENDED DECISION. THE COMMISSION MODIFIES SAID DECISION BY DELETING ALL LANGUAGE AFTER THE SECOND SENTENCE OF PARAGRAPH 11 OF THE CONCLUSIONS OF LAW AND ADDING THAT THE RESPONDENT HAS PENDING GRIEVANCES OVER HIS PRIOR DISCIPLINE, BUT THIS OFFENSE ON ITS OWN WARRANTS A 20-DAY SUSPENSION.**

**KOLKER            YES                            EWELL            YES**  
**PETERSON        YES                            DALIANIS**  
**BUKRABA         YES**

XI. APPEAL TERMINATED WITHOUT DECISION ON THE MERITS

• DISMISSED

DA-20-09

Employee	Stephen Pincsak	Appeal Date	12/03/08
Agency	DOC	Decision Date	12/19/08
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Unauthorized absences	Recommended Decision	Dismissed; withdrawn.

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 4-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION TO DISMISS THE APPEAL AS THE EMPLOYEE WITHDREW THE APPEAL.**

<b>KOLKER</b>	<b>YES</b>	<b>EWELL</b>	<b>YES</b>
<b>PETERSON</b>	<b>YES</b>	<b>DALIANIS</b>	
<b>BUKRABA</b>	<b>YES</b>		

XII. STAFF REPORT

Executive Director Daniel Stralka reported that:

- The Governor's Office of Management & Budget has reduced the Commission's fiscal year 2010 budget submission to \$442,950.
- Statements of Economic Interest will be mailed out in March and need to be completed and filed by June 1, 2009.
- All the Commissioners and staff completed ethics training for 2008. Required reports were filed with the Office of Executive Inspector General.

Assistant Executive Director Andrew Barris reported that he previously submitted the approved amendments to the Rules of the Civil Service Commission to the Joint Committee on Administrative Rules. Its staff made several changes in structure, grammar, and formatting and returned them to Commission staff. After reviewing these changes for any substantive changes to the amendments as had been previously approved by the Commissioners, Civil Service Commission staff concurred with the vast majority of these suggested changes and was continuing its dialogue to reach agreement on the remaining changes. It was the consensus of the Commissioners that non-substantive changes such as formatting and grammar to the previously approved amendments need not be presented to the Commissioners a second time for consideration and approval.

January 16, 2009

XIII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on Friday, February 20, 2009 at 11:00 a.m. in the Commission's Chicago office.

XIV. MOTION TO ADJOURN

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 4-0 TO ADJOURN THE MEETING AT 12:08 P.M.**