

April 20, 2012

REGULAR MEETING MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
April 20, 2012

I. CALL TO ORDER THE REGULAR OPEN MEETING AT 11:00 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Anita M. Cummings, Ares G. Dalianis, Garrett P. FitzGerald, and Susan Moylan Krey, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; Roneta Taylor (by telephone) and Mark Magill (by telephone), Illinois Department of Central Management Services; Jeanette Okulinski and Betty Torres, Illinois Department of Employment Security; and Grace Hong Duffin, Illinois Department of Human Services.

III. APPROVAL OF MINUTES OF REGULAR OPEN MEETING HELD MARCH 16, 2012

IT WAS MOVED BY COMMISSIONER FITZGERALD, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO APPROVE THE MINUTES OF THE REGULAR OPEN MEETING HELD MARCH 16, 2012.

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

A. Report on Exempt Positions from Illinois Dept. of Central Management Services

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging.....	144.....	11
Agriculture	359.....	16
Arts Council	18.....	2
Capitol Development Board.....	42.....	0
Central Management Services.....	1,610.....	113
Children and Family Services	2,893.....	49
Civil Service Commission.....	4.....	0
Commerce & Economic Opportunity.....	397.....	67
Commerce Commission	77.....	0
Corrections.....	11,343.....	105
Criminal Justice Authority	63.....	5
Deaf and Hard of Hearing Comm.....	7.....	1
Developmental Disabilities Council.....	8.....	1
Emergency Management Agency.....	90.....	6
Employment Security.....	1,773.....	25
Environmental Protection Agency.....	855.....	16
Financial & Professional Regulation.....	469.....	42
Gaming Board.....	127.....	5
Guardianship and Advocacy	103.....	7
Healthcare and Family Services	2,125.....	25
Historic Preservation Agency.....	174.....	11
Human Rights Commission.....	14.....	2
Human Rights Department.....	141.....	8
Human Services.....	12,861.....	76
Illinois Sentencing Policy Advisory Council.....	2.....	2
Illinois Torture Inquiry Relief Commission	2.....	1
Insurance.....	254.....	13
Investment Board	2.....	1
Juvenile Justice.....	1,225.....	20
Labor.....	88.....	9
Labor Relations Board Educational.....	11.....	2
Labor Relations Board State.....	17.....	2
Law Enforcement Training & Standards Bd.	18.....	2
Lottery.....	149.....	6
Medical District Commission.....	2.....	0
Military Affairs	122.....	3
Natural Resources	1,191.....	28
Pollution Control Board	22.....	1
Prisoner Review Board.....	19.....	0
Property Tax Appeal Board.....	22.....	1
Public Health.....	1,086.....	41
Racing Board.....	2.....	1
Revenue.....	1,723.....	52
State Fire Marshal	142.....	12
State Police.....	1,211.....	5
State Police Merit Board	5.....	1
State Retirement Systems.....	94.....	2
Transportation	3,207.....	0
Veterans' Affairs.....	1,294.....	9
Workers' Compensation Commission.....	132.....	8
TOTALS	47,739.....	815

B. Governing Rule – Section 1.142 Jurisdiction B Exemptions

- a) The Civil Service Commission shall exercise its judgment when determining whether a position qualifies for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code. The Commission will consider any or all of the following factors inherent in the position and any other factors deemed relevant to the request for exemption:
- 1) The amount and scope of principal policy making authority;
 - 2) The amount and scope of principal policy administering authority;
 - 3) The amount of independent authority to represent the agency, board or commission to individuals, legislators, organizations or other agencies relative to programmatic responsibilities;
 - 4) The capability to bind the agency, board or commission to a course of action;
 - 5) The nature of the program for which the position has principal policy responsibility;
 - 6) The placement of the position on the organizational chart of the agency, board or commission;
 - 7) The mission, size and geographical scope of the organizational entity or program within the agency, board or commission to which the position is allocated or detailed.
- 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 the Department of Central Management Services, rescind the exemption of any position that no longer meets the requirements for exemption set forth in subsection (a). However, rescission of an exemption shall be approved after the Commission has determined that an adequate level of managerial control exists in exempt status that 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 essential functions, reporting structure, working title, work location, position title, position number or specialized knowledge, skills, abilities, licensure or certification.
- d) Prior to granting an exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the Commission will notify the incumbent of the position, if any, of its proposed action. The incumbent may appear at the Commission meeting at which action is to be taken and present objections to the exemption request.

(Source: Amended at 34 Ill. Reg. 3485, effective March 3, 2010)

* * *

C. Requests for 4d(3) Exemption

Executive Director Daniel Stralka reported:

- As to Item C, this request is for the Project Manager for the Misclassified Worker Program at the Illinois Department of Employment Security, a position that reports to the Executive Deputy Director who reports to the Director. As indicated last month, the misclassified worker program is designed to ensure employers properly classify their workers as employees as opposed to independent contractors or otherwise which excuses them from paying unemployment insurance. This matter was continued last month because the position's superior had yet to be established so the organizational structure was not finalized. That has now been corrected so Staff recommended approval of this request.
- As to Item D, this request is for the Assistant Deputy Director of Programs for the Illinois Department of Employment Security, a position that reports to the Executive Deputy Director who reports to the Director. Staff had not had any response to the questions it had which it sent to the agency last Friday. Therefore, it cannot make a recommendation at this time. Jeanette Okulinski, Organization Development Manager for the Illinois Department of Employment Security, indicated that the agency was prepared to respond to the Staff concerns at this time. However, Chairman Kolker suggested that this matter be continued to next month to allow the agency to respond in writing to Staff's concerns. This was acceptable to the agency.
- As to Item E, this request is for the Executive Director of the Illinois Juvenile Justice Commission, a position that reports to the Chair of the Commission for substantive or policy matters but to the Secretary of the Department of Human Services for administrative matters. This position is the only principal policy developing and implementing position at the Commission. The Commission is a statutory creation (20 ILCS 505/17a-9) to develop, review, and give final approval to the State's juvenile justice plan for funds it receives under the Federal Juvenile Justice and Delinquency Prevention Act of 1974. This does not fall within the Department of Juvenile Justice because it is involved more with prevention, not punishment or confinement. The Commission receives approximately \$2,000,000 annually which it uses to award grants to accomplish this purpose.

For these reasons, Staff recommended approval of this request. Chairman Kolker inquired as to the number of employees at the Commission. Grace Hong Duffin, Chief of Staff for Illinois Department of Human Services, responded that there will be one full-time and one part-time. She further explained that by the terms of the federal grant, no more than ten percent of the grant may go to administrative costs so any administrative costs beyond that must be borne by some other State agency.

IT WAS MOVED BY COMMISSIONER FITZGERALD, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO CONTINUE AND GRANT THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:

- C: Project Manager for Misclassified Worker Program (Employment Security)**
- D: Assistant Deputy Director of Programs (Employment Security)**
- E: Executive Director, Juvenile Justice Commission (Human Services)**

The following 4d(3) exemption request was continued on April 20, 2012:

D. Illinois Department of Employment Security

Position Number	40070-44-40-010-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Programs
Functional Title	Assistant Deputy Director of Programs
Incumbent	Vacant
Supervisor	Executive Deputy Director of Programs who reports to the Director
Location	Cook County

The following 4d(3) exemption requests were granted on April 20, 2012:

C. Illinois Department of Employment Security

Position Number	40070-44-40-500-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Revenue
Functional Title	Project Manager for Misclassified Worker Program
Incumbent	Vacant
Supervisor	Manager of Revenue Division who reports to the Director
Location	Cook County

E. Illinois Department of Human Services

Position Number	40070-10-00-000-11-03
Position Title	Senior Public Service Administrator
Bureau/Division	Secretary's Office
Functional Title	Executive Director, Juvenile Justice Commission
Incumbent	Vacant
Supervisor	Secretary
Location	Sangamon County

F. Report on Section 4d(3) Exempt Positions in Bargaining Units

Executive Director Dan Stralka provided a brief explanation behind the Report on Section 4d(3) Exempt Positions in Bargaining Units. Commissioner Krey inquired as to when this problem began. Executive Director Stralka replied that it first started sometime prior to 2003, but it gained momentum in the years after 2003 as Unions began to organize what had traditionally been middle-management titles, especially the broadbanded Public Service Administrator title. He elaborated on steps he and Chairman Kolker took in those early years to avert this outcome. Chairman Kolker inquired of Roneta Taylor, Manager of Technical Services for the Department of Central Management Services, if it was the agency's position to hold off on rescinding the exemptions of any such titles until pending litigation and contract negotiations are completed. Ms. Taylor responded affirmatively.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 5-0 TO APPROVE THE STAFF REPORT ON SECTION 4D(3) EXEMPT POSITIONS IN BARGAINING UNITS AND ATTACH IT TO THESE MINUTES.

V. CLASS SPECIFICATIONS

- None submitted.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 5-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

VI. MOTION TO CLOSE A PORTION OF THE MEETING

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER KREY, AND BY ROLL CALL VOTE THE MOTION ADOPTED 5-0 TO CLOSE A PORTION OF THE MEETING PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

KOLKER	YES	CUMMINGS	YES
DALIANIS	YES	FITZGERALD	YES
KREY	YES		

VII. RECONVENE THE OPEN MEETING

Upon due and proper notice the regular open meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 11:40 a.m.

PRESENT

Chris Kolker, Chairman; Anita M. Cummings, Ares G. Dalianis, Garrett P. FitzGerald, and Susan Moylan Krey, Commissioners; Daniel Stralka, Executive Director; and Andrew Barris, 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 Illinois Department of Central Management Services' Consecutive Non-Merit Report.

Agency	2/29/12	3/31/12	3/31/11
Aging	0	1	0
Agriculture	0	0	1
Central Management Services	1	0	0
Children and Family Services	1	2	3
Corrections	0	1	0
Employment Security	2	1	2
Healthcare and Family Services	2	3	1
Historic Preservation Agency	1	1	1
Human Services	1	1	2
Natural Resources	15	8	8
Property Tax Appeal Board	0	0	2
State Fire Marshal	1	1	0
Transportation	5	10	5
Veterans' Affairs	0	0	1
Totals	29	29	26

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

DA-6-12

Employee	Aretha Rogers	Appeal Date	08/01/11
Agency	Human Services	Decision Date	03/30/12
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Conduct unbecoming	Proposal for Decision	Discharge upheld.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER FITZGERALD, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION THAT THE CHARGES HAVE BEEN PROVEN AND WARRANT DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED MARCH 30, 2012.

KOLKER	YES	CUMMINGS	YES
DALIANIS	YES	FITZGERALD	YES
KREY	YES		

DA-10-12

Employee	Tammy S. Brown	Appeal Date	8/22/11
Agency	Human Services	Decision Date	4/05/12
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Violations of abuse and neglect policy, and reporting and investigations policy	Proposal for Decision	60 day suspension plus duration of suspension pending discharge.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER KREY, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM, MODIFY, AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION THAT THE CHARGES HAVE BEEN PROVEN AND WARRANT A 60-DAY SUSPENSION PLUS THE DURATION OF HER SUSPENSION PENDING DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED APRIL 5, 2012. THE PARTIALLY PROVEN CHARGES WARRANT A 14-DAY SUSPENSION INSTEAD OF A 60-DAY SUSPENSION PLUS THE DURATION OF HER SUSPENSION PENDING DISCHARGE BECAUSE OF THE EMPLOYEE'S 23 YEARS OF CONTINUOUS SERVICE WITH NO PRIOR HISTORY OF ABUSE AND BECAUSE BROWN RESPONDED TO A CHAOTIC SITUATION WITHOUT ANY SUPERVISORY ASSISTANCE IN A MANNER THAT SHOULD NOT BE SECOND-GUESSED.

KOLKER	YES	CUMMINGS	YES
DALIANIS	YES	FITZGERALD	YES
KREY	YES		

DA-42-12

Employee	Theodore Welch	Appeal Date	1/30/12
Agency	Human Services	Decision Date	4/06/12
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Violation of supervision of assigned individuals policy, failure to perform duties, and conduct unbecoming	Proposal for Decision	Discharge upheld.

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER CUMMINGS, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION THAT THE CHARGES HAVE BEEN PARTIALLY PROVEN AND WARRANT DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED APRIL 6, 2012.

KOLKER	YES	CUMMINGS	YES
DALIANIS	YES	FITZGERALD	YES
KREY	YES		

RV-49-11

Employee	Sarah Sullivan	Appeal Date	5/05/11
Agency	Healthcare	Decision Date	3/23/12
Type	Rule Violation	ALJ	Andrew Barris
Issue(s)	Violation of Section 301.170 of the Personnel Rules and Sections 310.20, 310.80, 310.90 and 310.100 of the Pay Plan	Proposal for Decision	Violation of Sections 301.170 of the Personnel Rules and Sections 310.20 and 310.90(e) of the Pay Plan; Sullivan is entitled to a starting salary of \$4,388 as of July 7, 2011.

IT WAS MOVED BY COMMISSIONER FITZGERALD, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION THAT SULLIVAN HAS PROVEN BY A PREPONDERANCE OF THE EVIDENCE THAT THE REDUCTION OF HER STARTING SALARY FROM \$4,388 TO \$4,215 ON JULY 7, 2011 WAS NOT IN COMPLIANCE WITH SECTIONS 301.170 OF THE PERSONNEL RULES AND SECTION 310.20 AND 310.90(E) OF THE PAY PLAN. HEALTHCARE AND FAMILY SERVICES DID NOT REBUT THIS PRESUMPTION BY THE SAME QUANTITY OF EVIDENCE.

HEALTHCARE AND FAMILY SERVICES IS DIRECTED TO COME INTO COMPLIANCE WITH THE PERSONNEL RULES AND PAY PLAN BY SETTING SARAH SULLIVAN'S SALARY AS \$4,388 WITH AN EFFECTIVE

DATE OF JULY 7, 2011 AND THIS SALARY AMOUNT SHALL BE THE BASIS UPON WHICH ANY SALARY INCREASES AFTER JULY 7, 2011 MUST BE CALCULATED.

KOLKER	YES	CUMMINGS	YES
DALIANIS	YES	FITZGERALD	YES
KREY	YES		

X. APPEALS DISMISSED WITHOUT DECISION ON THE MERITS

DA-45-12

Employee	Lakeshia Jones	Appeal Date	02/21/12
Agency	Agriculture	Decision Date	03/09/12
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Unauthorized absences, failure to provide medical certification, and failure to follow instructions	Proposal for Decision	Dismissed subject to approval of Commission; withdrawn.

DA-47-12

Employee	Shanard B. Montgomery	Appeal Date	3/09/12
Agency	Human Services	Decision Date	3/30/12
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Violation of abuse and neglect policy	Proposal for Decision	Dismissed subject to approval of Commission; withdrawn.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER FITZGERALD, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSALS FOR DECISION TO DISMISS THE JONES AND MONTGOMERY APPEALS FOR THE REASONS SET FORTH IN THE PROPOSALS FOR DECISION.

KOLKER	YES	CUMMINGS	YES
DALIANIS	YES	FITZGERALD	YES
KREY	YES		

XI. AMENDMENTS TO THE PERSONNEL RULES

Section 2650.10 Organization

- a) The Director shall have general administrative and policy authority regarding SECA.
- b) An Advisory Board to assist in implementing and regulating the State and University Employees Combined Appeal (SECA) is established under the chairmanship of the Director (or his/her designee).
 - 1) The following persons shall be invited to be members of the Advisory Board: five or more State employees "at large" representing employee interests; the prior year's SECA chairperson; the Lieutenant Governor or his/her designee; a representative of a State employee labor organization; a representative from a Retirement System; and the appointed SECA Chairperson for the current year. The at-large members and the labor organization representative shall be appointed by the Director.
 - 2) ~~No State employee members shall serve more than three-year term consecutive one-year terms.~~ State employee members may serve no more than two consecutive three-year terms.
 - 3) The Advisory Board shall meet at least quarterly.
 - 4) The function of the Advisory Board is to advise the Director on SECA matters, including:
 - A1) Discussion and planning of the administration and conduct of the annual campaign.
 - B2) Review of combined campaign materials, educational programs, publicity efforts, campaign goals and recognition-award programs.
 - C3) Selection process for SECA coordinators.
 - D4) Verification of continuing eligibility through the Comptroller's Office.
 - E5) Candidate search and presentation of any proposed third party manager to the Qualified Charitable Organizations for approval and establishment of proposed duties of any third party manager.
 - F6) Any other issues determined to be consistent with the functions of the Advisory Board.

- 5) A representative from each Qualified Charitable Organization may attend and speak at each Advisory Board meeting, but shall not have a vote on the Advisory Board.
- c) A chairperson for each annual SECA shall be appointed by the Governor. The chairperson shall serve on the Advisory Board to assist the Director on functions specified in subsections (b)(4)(B) and (C)(2) and (b)(3). Each chief officer shall appoint an executive coordinator for each annual campaign. SECA coordinators or other agency employees shall be permitted work time to perform their responsibilities, including campaign briefings and training, distribution of literature, collection of pledge cards, telephone and contact with representatives of the Qualified Charitable Organizations. SECA coordinators will be permitted to request liaisons to assist where an agency has multiple worksites. SECA liaisons will be given time to meet with their coordinator for training and related events. Any State employee who volunteers for a charity event shall contribute time solely during non-work hours.

Section 302.30 Veterans Preference

- a) Appropriate preference in entrance examinations shall be granted to qualified persons who have been members of the armed forces of the United States or to qualified persons who, while citizens of the United States, were members of the armed forces of allies of the United States in time of hostilities with a foreign country (as set forth in Section 8b7 of the Personnel Code) and to certain other persons as set forth in this Section.
- b) To be eligible, applicant must have received discharge under honorable conditions and served under one or more of the following conditions:
 - 1) Served, for at least six months, in the armed forces of the United States, the Illinois National Guard, or any reserve component of the armed forces of the United States; or, while a U.S. citizen, must have been a member of the armed forces of an ally of the U.S. in time of hostilities with a foreign country; or
 - 2) While a U.S. citizen, been a member of the armed forces of an ally of the U.S. in time of hostilities with a foreign country; or
 - 32) Discharged on the grounds of hardship; or
 - 43) Released from active duty because of a service connected disability; or
 - 54) Served for the duration of hostilities regardless of the length of engagement.
- c) Preference will be in the form of points added to the final grades of persons who otherwise qualify and are entitled to appear on the list of those eligible for appointments. Preference in entrance examinations will be granted as follows:

- 1) Ten points shall be added to the entrance examination grade for ~~such~~ veteran eligibles currently holding proof of a service connected disability from the U.S. Department of United States Veterans Affairs Administration or from ~~an~~ allied country for service connected disabilities or if the veteran is a purple heart recipient.
- 2) Five points shall be added to the entrance examination grade for ~~such~~ veteran eligibles who have served during a time of hostilities with a foreign country and; who meet the qualifications set forth in subsection (b),~~;~~ but who do not qualify for 10 points under subsection (c)(1).
- 3) A person not eligible for a preference under subsection (c)(1) or (c)(2) is qualified for a preference of 3 points if the person has served in the armed forces of the United States, the Illinois National Guard, or any reserve component of the armed forces of the United States and the person:
 - A) served for at least 6 months and has been discharged under honorable conditions; or
 - B) has been discharged on the grounds of hardship; or
 - C) was released from active duty because of a service connected disability.
- 4) An active member of the National Guard or a reserve component of the armed forces of the United States is eligible for the preference described in subsection (c)(3) if the member meets the service requirements of ~~this~~ subsection (c)(3).
- d) If category ratings are used, the veteran eligibles in each category shall be preferred for appointment before the non-veteran eligibles in the same category.
- e) The following shall be entitled to the same preference to which the veteran would have been entitled under this Section:~~A surviving unremarried spouse of a veteran who suffered a service connected death or the spouse of a veteran who suffered a service connected disability that prevents the veteran from qualifying for civil service employment shall be entitled to the same preference to which the veteran would have been entitled under this Section.~~
 - 1) a surviving unremarried spouse or civil union partner, who has not subsequently married or entered into a civil union, of a veteran who suffered a service connected death; or
 - 2) the spouse or civil union partner of a veteran who suffered a service connected disability that prevents the veteran from qualifying for civil service employment.

- f) A preference shall also be given to the following individuals: 10 points for one parent of ~~an unmarried~~ veteran who is not married or in a civil union partnership who suffered a service connected death or a service connected disability that prevents the veteran from qualifying for civil service employment. The first parent to receive a civil service appointment shall be the parent entitled to the preference.

- g) Before a veteran's preference is granted, the Department of Central Management Services must verify the applicant's entitlement to the preference by requiring a certified copy of the applicant's most recent DD-214 (Certificate of Release or Discharge from Active Duty) or other evidence of the applicant's most recent honorable discharge from the Armed Forces of the United States. The Department of Central Management Services shall determine whether the documentation submitted by the applicant is acceptable. To be acceptable, the documentation submitted must be an authentic, official record of the United States Armed Forces evidencing the individual's military service. It is the responsibility of each agency head to obtain documentary verification that persons seeking preference under this Section are entitled to such preference. Copies of verifying documents (discharge information such as a DD-214) shall be submitted to the Department of Central Management Services.

Section 303.165 Family Military Leave

- I. a) An employee who is the current spouse, civil union partner or parent of a person called to military service lasting longer than 30 days with a state or the United States, pursuant to the order of the Governor or the President, who wishes to be absent from work in order to meet or fulfill responsibilities arising from the employee's role in his or her family or as head of the household, is eligible to request up to 30 days of unpaid Family Military Leave (FML) during the time the State or federal deployment orders are in effect.

- b) The leave shall be granted to an employee who has been employed for at least 12 months and has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

- II. c) Any request for FML shall be in writing by the employee submitted not less than 14 calendar days in advance of the intended date the FML will commence if the leave will consist of 5 or more consecutive workdays. Employees requesting FML for less than 5 consecutive workdays shall give as much advance notice as is practicable. The employee shall consult with the employer to schedule the leave so as not to unduly disrupt the operations of the employer.

- III. d) Except in cases of emergency, FML shall be taken in full day increments only. The employee will be required to document the reason for the emergency nature of the need for leave in writing within two days after the employee's return to work.
- IV. e) The employee shall provide certification from the proper military authority to verify eligibility for the FML requested.
- V. f) An employee shall not be eligible to take FML unless he or she has exhausted all accrued vacation leave, personal leave, compensatory leave, equivalent earned time, maternity/paternity leave, and any other time away from work with pay. Exceptions to this exhaustion requirement are sick leave, disability leave and unpaid leave under the Family Military Leave Act [820 ILCS 151].
- VI. g) Upon expiration of the FML, the employee is entitled to be restored to the position held by the employee when the leave commenced or to an equivalent position. These restoration rights do not apply if the employer establishes that the restoration is denied due to conditions unrelated to the employee's exercise of rights under the Family Military Leave Act.
- VII. h) An intermittent employee shall be nonscheduled for the duration of the required leave.
- VIII. i) This leave will not extend to any type of appointment that is 6 months or less in duration
- ___j) Time utilized under the Family Military Leave Act is not deducted from an employee's creditable service, continuous service, vacation accrual or seniority date.

Section 303.166 Civil Air Patrol Leave

- IX. a) An employee is eligible to request up to 30 days of unpaid Civil Air Patrol Leave (CAPL) to perform a civil air patrol mission.
- X. b) CAPL shall be granted to an employee who has been employed for at least 12 months and has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.
- c) Any request for CAPL shall be in writing by the employee and submitted not less than 14 calendar days in advance of the intended date the CAPL will commence if the leave will consist of 5 or more consecutive workdays. Employees requesting CAPL for less than 5 consecutive workdays shall give as much advance notice as is practicable. The employee shall consult with the employer to schedule the leave so as not to unduly disrupt the operations of the employer.

- XI. d) The employee shall provide certification from the Civil Air Patrol authority to verify eligibility for the CAPL requested.
- XII. e) An employee eligible to take CAPL shall not be required to have exhausted all accrued vacation leave, personal leave, compensatory leave, equivalent earned time, maternity/paternity leave, sick leave, disability leave, and any other time away from work with pay.
- XIII. f) Upon expiration of the leave, the employee is entitled to be restored to the position held by the employee when the leave commenced or to an equivalent position. These restoration rights do not apply if the employer establishes that the restoration is denied due to conditions unrelated to the employee's exercise of rights under the Civil Air Patrol Leave Act [820 ILCS 148].
- XIV. g) During any CAPL, an employee shall be allowed to continue his or her benefits at his or her own expense, unless previously negotiated with the employer.
- XV. h) An intermittent employee shall be nonscheduled for the duration of the required leave.
- XVI. i) This leave will not extend to any type of appointment that is 6 months or less in duration.
- j) Time utilized under the Civil Air Patrol Leave Act is not deducted from an employee's creditable service, continuous service, vacation accrual or seniority date.

Section 303.175 Disaster Service Leave With Pay

- a) Any employee, except those in temporary, emergency or per diem status, who is a certified disaster service volunteer of the American Red Cross or volunteers for assignment to the Illinois Emergency Management Agency in accordance with the Illinois Emergency Management Agency Act [20 ILCS 3305] or the Emergency Management Assistance Compact Act [45 ILCS 151] may be granted leave with pay for up to 20 working days in any 12-month period for disasters within the United States or its territories. The leave may be granted upon request of the American Red Cross or the Illinois Emergency Management Agency for employees to participate in specialized disaster relief services for the American Red Cross or for the Illinois Emergency Management Agency. Leaves under this Section are subject to approval of the employee's agency considering operating needs.

b) Disasters must be either:

- 1) *disasters designated at a Level III and above in the American National Red Cross Regulations and Procedures; or*
- 2) *any disaster declared by proclamation of the Governor under Section 7 of the Illinois Emergency Management Agency Act [5 ILCS 335/2].*

c) The American Red Cross and the Illinois Emergency Management Agency shall coordinate requests for services outside of Illinois through the Illinois State Emergency Operations Center.

Section 305.290 Extends Jurisdiction A, B and C (July 1, 2012)

- a) Effective July 1, 2012, the Personnel Code Jurisdictions A, B and C will be extended to the Department of Central Management Services' Illinois Office of Communication and Information position performing work as a Nuclear Safety Information Specialist II; and to the Illinois Commerce Commission positions performing work as Management Secretary I, Human Resource Analyst, Senior Financial and Budget Assistant, Human Resource Clerk, or Transportation Industry Customer Service Representative I.
- b) With the exception of those employees who have already been determined qualified, the affected employees cited in subsection (a) will be required to qualify within six months in the same kind of examination as those required for entrance examinations for comparable positions. All other appointments subsequent to July 1, 2012 will be made pursuant to provisions of the Illinois Personnel Code and the rules of the Department of Central Management Services (see 80 Ill. Adm. Code 301, 302, 303, 304, 310 and 320). No provision of this Section in any way affects the status of employees already holding certified status under the Illinois Personnel Code. All other provisions of the Illinois Personnel Code and rules of the Department of Central Management Services will apply to the affected employees effective July 1, 2012.

XII. STAFF REPORT

Executive Director Daniel Stralka reported:

- Statements of Economic Interest should have been received by all the Commissioners by now. He reminded them that these Statements are to be completed and turned in to him prior to filing with the Secretary of State. His responsibilities as Ethics Officer mandate that he review them. After his review, Commission staff will hand deliver them to the Secretary of State. He noted that the filing deadline is May 1.
- Ethics Testing materials have been forwarded to Commissioners. The signed acknowledgements page is to be returned to him.

April 20, 2012

- He attended both the Commission's Senate and House Appropriation Committee hearings. There were minimal inquiries about the Commission's fiscal year 2013 request. The Commissioners briefly discussed ways to assist in this matter.
- The Senate Executive Appointment Committee has now moved the approval of Commissioners Krey, FitzGerald, and Cummings to the full Senate.
- The Commission's Springfield lease has not reappeared before the Procurement Policy Board. Central Management Services advertised for bids and a tour of the responding properties is scheduled for April 24.
- The mileage reimbursement increased from \$0.51 to \$0.555 effective immediately.

Executive Director Stralka presented a proposed format change to the Commissioners. Presently, the agenda information for all disciplinary appeals includes a brief summary explanation of the charges against the employee. There have been complaints from some employees that internet searches by prospective employers turn up these charges which negatively reflect on the employee, regardless if the charge has been proven or not. It was suggested that such information be omitted from agendas in the future. After a brief discussion during which all Commissioners participated, it was the consensus of the Commissioners that charge information be excluded from the agenda in disciplinary appeals.

XIII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular open meeting to be held Friday, May 18, 2012 at 1:00 p.m. in the Commission's Springfield office.

XIV. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER FITZGERALD, AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 12:00 P.M.



Daniel Stralka
EXECUTIVE DIRECTOR

State of Illinois
CIVIL SERVICE COMMISSION
400 W. Monroe Street, Suite 306
Springfield, IL 62704-1801
PHONE (217) 782-7373
FAX (217) 524-3706
TTY (888) 261-2819
www.icsc.il.gov

Chris Kolker
CHAIRMAN

COMMISSIONERS
Anita M. Cummings
Ares G. Dalianis
Garrett P. FitzGerald
Susan Moylan Krey

To: Chairman Kolker; Commissioners Cummings, Dalianis, FitzGerald, and Krey
From: Daniel Stralka
Date: April 11, 2012
Subject: Report on Section 4d(3) Exempt Positions in Bargaining Units

This report has been prepared in response to an issue that arose at the Commission's December 16, 2011 meeting regarding continuing the term exemption for a 4d(3) exempt position that had been placed in a collective bargaining unit by the Illinois Labor Relations Board (ILRB). The determination to place this position in a bargaining unit had been contested by the agency at the ILRB, and the adverse decision was subsequently appealed. The appeal remained pending when the agency came before the Commission seeking, at a minimum, another term extension. The Commission approved a six month extension.

Section 4d(3) exemptions are reserved for positions that "involve either principal administrative responsibility for the determination of policy or principal administrative responsibility for the way in which policies are carried out." It was not until 10+ years ago that some of these positions were included in bargaining units certified by the ILRB, but the positions were few in number. As Unions sought to organize the broadband class positions – specifically Public Service Administrators – the number of exempt positions included in bargaining units increased. The Commission has on multiple occasions made it clear that it viewed the inclusion of a position in a bargaining unit as inconsistent with Section 4d(3) exempt status. The essence of such an exemption is to allow the administration to appoint and dismiss these employees who have a significant impact on policy determination or implementation without having to resort to traditional civil service protections, i.e., they serve at the pleasure of the administration. Inclusion in a bargaining unit, for all practical purposes, eliminates that appointment/dismissal flexibility.

On January 5, 2012 Commission staff solicited information from Central Management Services (CMS) regarding the number of Section 4d(3) exempt positions that have been included in bargaining units along with the present status of any appeals of ILRB inclusion decisions. CMS replied on February 14. After reviewing the list and clearing up some inconsistencies, there are presently 41 exempt positions that have been included in bargaining units. The ILRB decisions to include these 41 positions in bargaining units are all at varying stages of administrative or judicial appeal by the State. That is a total of thirteen separate appeals. Reviewing other CMS materials uncovered four exempt positions that have been included in bargaining units and there is no appeal pending of that ILRB determination.

When CMS put this information together for the Commission, it also informed Staff that it has a pending proposal to the Unions representing the employees in these positions which, if agreed to by the Unions, would exclude them from bargaining units by agreement. Such proposal would affect the 41 positions that are on appeal and the four that have been decided and no appeal is pending. At the present time, there has been no response to this pending proposal.

For the past several years the Commission has approved exemption requests for positions that have been included in bargaining units, but usually only for a limited term that has not exceeded two years. It is made clear to the requesting agencies that a final adverse decision on the inclusion of the position in a bargaining unit may very well lead to the rescission of its exempt status. That course of action has been a prudent way of addressing the uncertainty in this area. The existence of the collective bargaining proposal to exclude all exempt positions from bargaining units may ultimately prove to be the universal solution to this issue. It is the Staff recommendation that the Commission proceed in its present manner with regard to requests to exempt positions that have been included in bargaining units and allow Staff to monitor the progress of both the pending litigation and contract proposal. Upon judicial or contractual resolution of this issue, Staff will report such to the Commission for further direction.