

August 17, 2012

REGULAR MEETING MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
August 17, 2012

I. CALL TO ORDER THE REGULAR OPEN MEETING AT 11:05 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Ares G. Dalianis, Garrett P. FitzGerald (by telephone), and Susan Moylan Krey, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director (by telephone); Roneta Taylor (by telephone) and Mark Magill (by telephone), Illinois Department of Central Management Services; Sara Han (by telephone) and Jane Cullen (by telephone), Illinois Department on Aging; Elizabeth Sarmiento, Scott Viniard (by telephone), and Ruddy Ortiz (by telephone), Illinois Department of Human Services; Jeanette Okulinski and Betty Torres, Illinois Department of Employment Security; Susan Gold, Illinois Department of Financial and Professional Regulation; Mark Ostrowski and Robert Burke, Illinois Gaming Board; Katherine Spinato, State Board of Investment; Kathy Saltmarsh, Illinois Sentencing Policy Advisory Council; Patrick Keen and Greg Muller, Illinois State Police; Dawn DeFraties (by telephone), Illinois Historic Preservation Agency; and Beth Dueterhaus (by telephone) and Lisa Prose (by telephone), Administrative & Regulatory Shared Services Center.

MOTION TO ALLOW PARTICIPATION AT MEETING BY AUDIO CONFERENCE

Executive Director Daniel Stralka advised that he had been notified in advance that Commissioner Garrett F. FitzGerald was prevented from physically attending the August 2012 meeting at the Commission's Chicago office due to employment purposes and wished to attend by audio conference.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 3-0 TO ALLOW COMMISSIONER FITZGERALD TO ATTEND THE MEETING BY AUDIO CONFERENCE.

III. APPROVAL OF MINUTES OF REGULAR OPEN MEETING HELD ON JULY 20, 2012

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 4-0 TO APPROVE THE MINUTES OF THE REGULAR OPEN MEETING HELD ON JULY 20, 2012.

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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.....	134.....	11
Agriculture.....	394.....	16
Arts Council.....	18.....	2
Capitol Development Board.....	43.....	0
Central Management Services.....	1,568.....	114
Children and Family Services.....	2,888.....	50
Civil Service Commission.....	4.....	0
Commerce & Economic Opportunity.....	387.....	68
Commerce Commission.....	73.....	0
Corrections.....	11,219.....	105
Criminal Justice Authority.....	59.....	5
Deaf and Hard of Hearing Comm.....	7.....	1
Developmental Disabilities Council.....	8.....	1
Emergency Management Agency.....	86.....	6
Employment Security.....	1,772.....	27
Environmental Protection Agency.....	837.....	16
Financial & Professional Regulation.....	452.....	42
Gaming Board.....	141.....	5
Guardianship and Advocacy.....	102.....	7
Healthcare and Family Services.....	2,064.....	25
Historic Preservation Agency.....	167.....	11
Human Rights Commission.....	14.....	2
Human Rights Department.....	137.....	8
Human Services.....	12,259.....	77
Illinois Sentencing Policy Advisory Council.....	2.....	2
Insurance.....	251.....	13
Investment Board.....	2.....	1
Juvenile Justice.....	1,202.....	21
Labor.....	92.....	11
Labor Relations Board Educational.....	11.....	2
Labor Relations Board State.....	17.....	2
Law Enforcement Training & Standards Bd.....	17.....	2
Lottery.....	149.....	7
Military Affairs.....	121.....	3
Natural Resources.....	1,140.....	28
Pollution Control Board.....	20.....	1
Prisoner Review Board.....	16.....	0
Property Tax Appeal Board.....	28.....	1
Public Health.....	1,073.....	41
Racing Board.....	2.....	1
Revenue.....	1,625.....	51
State Fire Marshal.....	128.....	12
State Police.....	1,165.....	5
State Police Merit Board.....	5.....	1
State Retirement Systems.....	94.....	2
Transportation.....	2,223.....	0
Veterans' Affairs.....	1,258.....	9
Workers' Compensation Commission.....	135.....	8
TOTALS.....	45,609.....	823

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 Items C1 and C2, these are two requests from the Department on Aging that were continued from last month. C1 is the Senior Policy Advisor who reports to the Deputy Director who reports to the Director. C2 is the Deputy Division Manager of Home and Community Services who reports to the Division Manager who reports to the Deputy Director who reports to the Director.

- As to C1, this position has principal policy formulation and implementation responsibilities for all Medicare/Medicaid programs at the agency. That is a generic term to describe any program available to eligible seniors. The difficulty for positions such as these is that these social service programs – especially related to Medicare and Medicaid – do not confine themselves to one agency. While Healthcare and Family Services is the lead agency for Medicare/Medicaid implementation, the various programs are also conducted through the other social service agencies such as Aging as well as the Department of Insurance. For the most part, various statutes identify the roles each agency plays in the implementation of these programs. With respect to this request, it appears to have principal policy responsibility for agency programs that fit this description. Since these programs have a statutory basis for the agency's role in delivering the defined services to eligible State residents, Staff recommended approval of this request. It is also noteworthy that this position will represent Aging at various meetings of the social service agencies with capacity to bind the agency to a course of action in the State's scheme of implementation of various Medicare/Medicaid programs.

Chairman Kolker inquired as to C1 for what programs would the position have binding authority. Jane Cullen, Chief Internal Auditor, representing the Department on Aging, cited several programs including Rebalancing Long Term Care and implementation of the Colbert Decree for relocating senior citizens from institutional settings. Chairman Kolker then inquired whether there were any collective bargaining issues with these positions and Ms. Cullen responded negatively.

- As to C2, this is a situation where the agency is seeking a Deputy Division Manager for the largest program within the agency. Home and Community Services supports a number of programs under its umbrella including the State Long-Term Care Ombudsman program, the Elder Abuse and Neglect program, and other programs under the Older Americans Act. It will function more as a principal policy implementer while the Division Manager will function more as a principal policy formulator. This position is most analogous to a number of Assistant Deputy Directors in specified programs at the Department of Commerce and Economic Opportunity. For these reasons, Staff recommended approval of this request.

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- As to Item D, the agency requested that this matter be continued to next month's meeting.
- As to Item E, this request is for the Information Strategy Director at the Department of Employment Security (IDES), a position that reports to the Director. This position is involved in the planning, directing, and implementing of public relations policies and strategies for the agency across all mediums including print, broadcast, social media, intranet, and internet. One of the major issues with this request is that there is a 4d(3) exempt Media Administrator at the Illinois Office of Communication and Information (IOCI) in Central Management Services (CMS) that performs similar responsibilities for the agency. In 2004 the Governor issued Executive Order #2 which consolidated all media relations functions for State agencies under the IOCI. There are presently 30 4d(3) exempt positions at the IOCI which exemptions are based on the performance of this function. One of the byproducts of this consolidation, not necessarily embraced by all agencies, is that agency positions formerly known as Public Information Officers which were under the agency directors lost their exempt status. From time to time, agencies submit requests to the Commission to exempt positions that perform functions substantially identical to that of the Media Administrators at the IOCI. Staff consistently notes the overlap and recommends that such requests be denied. A review of the position description form for the requested position indicates that it has substantially the same responsibilities as the already exempt Media Administrator assigned to this agency. As that precludes it from having the principal policy responsibility required under the Personnel Code for a 4d(3) exemption, Staff recommended that this request be denied. Staff also noted that there are credible arguments in favor of this request including the agency only having a part-time Media Administrator while other agencies have one or more. There are limited examples of agencies having some overlapping 4d(3) positions with Media Administrators. In addition, the agency makes a viable argument in favor of exemption since this position develops or creates the message while the Media Administrator focuses on the delivery of the message. For those reasons, the denial recommendation was characterized as a soft denial.

Barb Piwowski, Executive Deputy Director of Administration, Illinois Department of Employment Security, responded by noting the differences between this position and the Media Administrator. This position handles communication beyond press releases which is more the purview of the Media Administrator. In addition, the Media Administrator is only part-time at IDES and has been assisting the Department of Veterans' Affairs with new programs to benefit veterans. Chairman Kolker inquired why the agency would not simply seek a full-time Media Administrator. Ms. Piwowski responded that they had not considered that, repeating that the requested position has information producing and distributing responsibilities beyond the media. Chairman Kolker noted his concern that approving this request may usurp CMS's role in this process as carried out by the Media Administrator. Ms. Piwowski responded by noting how this position communicates with the agency's clients and partners in a variety of ways. Chairman Kolker inquired whether the position would develop

policy. Ms. Piwowarski responded by pointing out that the requested position would serve on the agency's senior management team. Commissioner Krey asked who the position reported to and Ms. Piwowarski replied the agency director. Commissioner FitzGerald asked if this request was time sensitive and Ms. Piwowarski replied affirmatively.

- As to Item F, this request is for the Credit Union Program Supervisor in the Department of Financial and Professional Regulation, Division of Financial Institutions, a position that reports to the Division Director who reports to the Secretary. This position was first exempted over 30 years ago but had its exemption rescinded in May 2010 due to extended vacancy. The agency now seeks reinstatement of the exemption. The Credit Union Program Supervisor is a position established by statute to supervise all the administrative and technical activities of the program. As such, it has principal policy implementation responsibilities. Staff considered this factor along with its lengthy exempt history and the agency's representation that it will fill the position shortly in recommending approval of this request.
- As to Item G, this request is for the Licensing Coordinator for the Illinois Gaming Board, a position that reports to the Administrator. This position has principal policy formulation and implementation responsibilities in processing all licensing requests related to riverboat and video gaming in the State. That amounts to 10 riverboat licenses, 25 riverboat supplier licenses and over 10,000 riverboat occupational licenses. Licenses related to video gaming may add up to an additional 10,000 to this total. As licensing is a primary program of the Gaming Board, Staff recommended approval of this request. Chairman Kolker inquired of the incumbent, Robert Burke, (who was present) if there was any objection and he responded negatively. Commissioner Dalianis asked the incumbent how long he had worked with the agency and Robert Burke responded 18½ years. Mark Ostrowski, Gaming Board Administrator, provided additional statistical information about the growth of licensing, noting how at one time the incumbent performed this function on his own.
- As to Item H, this request is for the Director of Security at the Abraham Lincoln Presidential Library and Museum, a position that reports to the Director. This position was first exempted in October 2004 but had its exemption rescinded in November 2011 due to extended vacancy. The agency has a new Director and has indicated it is prepared to fill the position so it is seeking reinstatement. There have been no significant changes to the position; it remains responsible for all security issues at the Library and Museum. For these reasons Staff recommended approval of this request. Chairman Kolker inquired if there were any collective bargaining issues with this position and Dawn DeFraties, representing the Illinois Historic Preservation Agency, responded negatively.
- As to Item I, this request is for the Director of the Community Service Enterprise Program at the Department of Human Services, a position that reports to the Chief Operations Officer who reports to the Assistant Secretary who reports to the

Secretary. This position is responsible for, essentially, Business Enterprise Program (BEP)-type functions for agency expenditures such as grants and purchase of care contracts that are outside the purview of CMS which monitors other State procurements for this reason. The basis for this program is in HB1488 which created a Management Improvement Initiative Committee encompassing the five social service agencies to, essentially, streamline bureaucratic operations that they share. One of these initiatives is to establish this position to monitor such expenditures across all five agencies – estimated to be over one billion dollars – to ensure BEP vendor participation is at an acceptable level.

As the Commission has previously indicated that the CMS BEP program supports a 4d(3) exempt position and it has been confirmed that these expenditures do not fall under it, Staff recommended approval of this request. Chairman Kolker inquired whether this position would be involved in advancing legislative initiatives in this field and Elizabeth Sarmiento, Director of Human Resources for Illinois Department of Human Services, responded affirmatively.

- As to Item J, this request is for the Chief Information Officer for the Illinois State Board of Investment, a position that reports to the Executive Director. This position has principal policy responsibility for all information technology matters affecting the Board which itself is responsible for \$11,000,000,000 in portfolio holdings. As the Commission has exempted similar positions in the past, Staff recommended approval of this request. Commissioner Dalianis inquired as to the portfolio holdings and Katherine Spinato, Deputy Executive Director, Illinois State Board of Investment, responded that it represented funds held on behalf of state employees, judges, the General Assembly, etc.
- As to Item K, this request is for the Research Director for the Illinois Sentencing Policy Advisory Council (ISPAC), a position that reports to the Executive Director. ISPAC was created to review sentencing policies and practices and examine how they impact the State's criminal justice system. This position has responsibility for the research required of ISPAC including acquiring and managing data collection and supervising a research staff. ISPAC already has an exempt Executive Director and Senior Policy Advisor. While it is undisputed that this position will require a highly skilled person to gather information, present it in an understandable format, and participate in meetings at which sentencing policy development is discussed, there is nothing to indicate that the position has any independent decision-making authority in the sentencing area. In addition, it is noted that ISPAC itself is an advisory committee; ultimate policy determinations are made at a different level. For these reasons, Staff recommended denial of this request.

Illinois Sentencing Policy Advisory Council Executive Director Kathy Saltmarsh replied that the primary purpose of the requested position is to develop a fiscal impact model for sentencing, and then address various alternatives and agencies to determine their impact. She cited the example of how sentencing can be impacted when the Department of Human Services cuts its mental health services.

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This position would be responsible for developing unique calculations and creating a unique database for use by the General Assembly in considering sentencing legislation. The position will have the capacity to bind the agency to data sharing relationships with universities.

Chairman Kolker noted that the position gathers information, and creating policy on how the information is gathered is not compatible with exemption criteria. He also noted that ISPAC is an advisory council; it does not ultimately establish sentencing policy.

Executive Director Saltmarsh responded that this position is charged with developing models and assumptions and formulas. It is a managerial position for complex research questions, having to identify original sources that have data ISPAC needs to perform its function. Data it gathers will be useful for the Budgeting for Results initiative put forth by the legislature and the Governor's Office of Management and Budget.

After additional discussion between the Commissioners and Executive Director Saltmarsh, it was agreed to continue this matter until next month for Commission Staff to continue this dialogue with the agency.

- As to Item L, this request is for the Administrative Services Bureau Chief/Chief Fiscal Officer at the Illinois State Police, a position that reports to the sworn Colonel of the Office of Administration who reports to the Director. This position was first exempted in March 2005 but had its exemption rescinded in May 2012 due to extended vacancy. The agency has indicated it is prepared to fill the position so it is seeking reinstatement. There have been no significant changes to the position; it remains responsible for the fiscal and human resources functions of the agency. For these reasons Staff recommended approval of this request.

Chairman Kolker inquired whether this position implements policy. Greg Muller, First Deputy Director of the Illinois State Police, responded that it does in fiscal matters. Patrick Keen, Colonel-Division of Administration, Illinois State Police, added that the position was presently vacant and there were no collective bargaining issues.

- As to Item M, this request is for the Chief of the Office of Child and Family Policy, a position that reports to the Deputy Director of Policy and Advocacy who reports to the Chief of Staff who reports to the Director. This position is ostensibly responsible for directing and controlling the operation of the policy analysis program. However, its superior Deputy Director position appears to be the position that has principal policy responsibility for this program and the requested position manages the position subject to the Deputy Director's direction. In addition, the agency has an exempt deputy general counsel whose job responsibilities include review and analysis of policy and procedures to ensure compliance with laws. For these reasons, Staff recommended denial of this request.

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

- C1: Senior Policy Advisor (Aging)**
- C2: Deputy Division Manager (Aging)**
- E: Information Strategy Director (Employment Security)**
- F: Credit Union Program Supervisor (Financial & Professional Regulation)**
- G: Licensing Coordinator (Gaming Board)**
- H: Director of Security-ALPLM (Historic Preservation Agency)**
- I: Director, Community Service Enterprise Program (Human Services)**
- J: Chief Information Officer (Illinois State Board of Investment)**
- L: Administrative Services Bureau Chief / CFO (Illinois State Police)**

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

- D: Manager, Latino Worker Safety & Immigration Policy (DHS)**
- K: Research Director (Illinois Sentencing Policy Advisory Council)**

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 4-0 TO DENY THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION:

- M: Chief, Office of Child and Family Policy (Children & Family Services)**

Chairman Kolker thanked all the agency representatives for attending the meeting and noted the importance of their input and responses in helping the Commissioners make their determinations in these matters.

The following 4d(3) exemption requests were granted on August 17, 2012:

C1. Illinois Department on Aging

Position Number	40070-47-00-000-10-01
Position Title	Senior Public Service Administrator
Bureau/Division	Executive
Functional Title	Senior Policy Advisor
Incumbent	Vacant
Supervisor	Deputy Director who reports to the Director
Location	Cook County

C2. Illinois Department on Aging

Position Number	40070-47-30-000-00-02
Position Title	Senior Public Service Administrator
Bureau/Division	Home and Community Services
Functional Title	Deputy Division Manager
Incumbent	Vacant
Supervisor	Division Manager, who reports to the Deputy Director, who in turn reports to the Director
Location	Sangamon County

E. Illinois Department of Employment Security

Position Number	40070-44-00-600-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Information Strategy Director
Incumbent	Vacant
Supervisor	Director
Location	Cook County

F. Illinois Department of Financial and Professional Regulation

Position Number	40070-13-20-400-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Financial Institutions
Functional Title	Credit Union Program Supervisor ¹
Incumbent	Vacant
Supervisor	Director of the Division of Financial Institutions who reports to the Secretary
Location	Cook County

¹ This position's exemption was rescinded on May 21, 2012 because of extended vacancy.

G. Illinois Gaming Board

Position Number	40070-50-69-010-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Licensing Division
Functional Title	Licensing Coordinator
Incumbent	Robert Burke
Supervisor	Gaming Board Administrator
Location	Cook County

H. Illinois Historic Preservation Agency

Position Number	40070-48-50-100-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Abraham Lincoln Presidential Library and Museum (ALPLM), Director's Office
Functional Title	Director of Security ²
Incumbent	Vacant
Supervisor	ALPLM Director who reports to the Agency Director
Location	Sangamon County

I. Illinois Department of Human Services

Position Number	40070-10-00-510-00-29
Position Title	Senior Public Service Administrator
Bureau/Division	Chief Operations Office
Functional Title	Director of the Community Service Enterprise Program (CSEP)
Incumbent	Vacant
Supervisor	Chief Operations Officer who reports to the Assistant Secretary who reports to the Secretary
Location	Cook County

J. Illinois State Board of Investment

Position Number	40070-50-95-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Chief Information Office
Functional Title	Chief Information Officer
Incumbent	Vacant
Supervisor	Executive Director
Location	Cook County

² This position's exemption was rescinded on November 18, 2011 because of extended vacancy.

L. Illinois State Police

Position Number	40070-21-12-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Administration
Functional Title	Administrative Services Bureau Chief / Chief Fiscal Officer ³
Incumbent	Vacant
Supervisor	Colonel, Division of Administration who reports to the Director
Location	Sangamon County

The following 4d(3) exemption requests were continued on August 17, 2012:

D. Illinois Department of Human Services

Position Number	40070-10-12-200-00-29
Position Title	Senior Public Service Administrator
Bureau/Division	Assistant Secretary's Office
Functional Title	Manager, Latino Worker Safety & Immigration Policy
Incumbent	Vacant
Supervisor	Assistant Secretary who reports to the Secretary
Location	Cook County

K. Illinois Sentencing Policy Advisory Council

Position Number	40070-50-04-100-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Research
Functional Title	Research Director
Incumbent	Vacant
Supervisor	Executive Director
Location	Sangamon County

The following 4d(3) exemption request was denied on August 17, 2012:

M. Illinois Department of Children & Family Services

Position Number	40070-16-65-100-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Policy and Advocacy
Functional Title	Chief, Office of Child and Family Policy
Incumbent	Vacant
Supervisor	Deputy Director of Policy and Advocacy who reports to the Chief of Staff, who in turn reports to the Director
Location	Sangamon County

³ This position's exemption was rescinded on May 18, 2012 because of extended vacancy.

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V. CLASS SPECIFICATIONS

- None submitted.

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER DALIANIS, 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 CLOSE A PORTION OF THE MEETING

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

KOLKER	YES	CUMMINGS
DALIANIS	YES	FITZGERALD YES
KREY	YES	

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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 11:50 a.m.

PRESENT

Chris Kolker, Chairman; Ares G. Dalianis, Garrett P. FitzGerald (by telephone), and Susan Moylan Krey, Commissioners; Daniel Stralka, Executive Director; and Andrew Barris, Assistant Executive Director (by telephone).

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	6/30/12	7/31/12	7/31/11
Aging	1	2	1
Agriculture	0	1	5
Arts Council	1	1	0
Central Management Services	0	1	3
Children and Family Services	8	10	6
Commerce & Economic Opportunity	0	0	1
Employment Security	1	1	25
Healthcare and Family Services	3	4	5
Historic Preservation Agency	0	0	6
Human Rights Department	1	1	0
Human Services	2	0	12
Natural Resources	1	7	20
Property Tax Appeal Board	0	0	13
Revenue	0	2	1
State Fire Marshal	0	0	1
Transportation	0	4	1
Veterans' Affairs	0	0	1
Workers' Compensation Commission	0	0	2
Totals	18	34	103

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IX. APPEALS TERMINATED WITHOUT DECISION ON THE MERITS

DA-35-12

Employee	Joan Lemus	Appeal Date	12/12/11
Agency	Veterans' Affairs	Decision Date	08/07/12
Type	Discharge	Proposal for Decision	Dismissed subject to approval of Commission; settled.

DA-51-12

Employee	Karen J. Luparell	Appeal Date	4/16/12
Agency	Environmental Protection Agency	Decision Date	8/03/12
Type	Discharge	Proposal for Decision	Dismissed subject to approval of Commission; settled.

DA-54-12

Employee	James L. Long	Appeal Date	6/07/12
Agency	Corrections	Decision Date	7/16/12
Type	Discharge	Proposal for Decision	Dismissed subject to approval of Commission; settled.

DA-55-12

Employee	Tina M. Graham	Appeal Date	6/22/12
Agency	Veterans' Affairs	Decision Date	7/16/12
Type	Discharge	Proposal for Decision	Dismissed subject to approval of Commission; withdrawn.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER KREY, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSALS FOR DECISION TO DISMISS THE APPEALS OF JOAN LEMUS, KAREN LUPARELL, JAMES LONG, AND TINA GRAHAM FOR THE REASONS SET FORTH IN THE ADMINISTRATIVE LAW JUDGE'S PROPOSALS FOR DECISION.

KOLKER	YES	CUMMINGS
DALIANIS	YES	FITZGERALD YES
KREY	YES	

X. AMENDMENTS TO THE PERSONNEL RULES

Section 303.112 Sick Leave Bank

- a) This Section contains rules governing the operation of plans allowing participating employees in each ~~agency~~**Agency** to bank portions of their accrued sick leave in a sick leave bank to be used by participating employees in the same agency who have exhausted their accrued vacation time, personal days, sick leave or compensatory time. ~~This Section provides~~**These rules provide** a framework within which each ~~agency~~**Agency** may administer a sick leave bank. Individual ~~agency~~**Agency** procedures should be consistent with the framework set forth in ~~this Section~~**these rules** unless alternative procedures have been agreed upon pursuant to collective bargaining negotiations.
- b) Definitions
- 1) *"Agency" means any branch, department, board, committee or commission of State government, but does not include units of local government, school districts or boards of election commissioners [5 ILCS 400/5.10].*
 - 2) *"Sick leave bank" means a depository into which participating employees may donate accrued sick leave time for allocation to other participating employees [5 ILCS 400/5.15].*
 - 3) *"Participating employee" means a permanent full- or part-time employee who has been employed by a State agency for a period of 6 months or more who voluntarily enrolls in the sick leave bank by depositing at least one full day of accrued sick leave in that bank [5 ILCS 400/5.20]. An employee who wishes to enroll must have a minimum of 5 days of accrued sick time on the books.*
 - 4) *"Catastrophic illness or injury" means temporary disability or incapacity resulting from a life threatening illness or injury or illness or injury of other catastrophic proportion as determined by the Director. Factors considered by the Director shall include the length of time the employee must be absent from work due to illness or injury. Catastrophic illness or injury may be due to, but not limited to, cancer, heart disease, stroke or another serious illness or injury resulting in an employee missing more than 25 work days.*
 - 5) *"Personal catastrophic illness or injury" means a catastrophic illness or injury to the employee or, if agreed upon by the ~~agency head~~**Agency Head** and the Director, members of the employee's immediate family. Factors to be considered in determining if an employee's immediate family members are covered include the nature and duration of the catastrophic illness or injury; whether the person is financially and emotionally dependent on the*

employee; whether the presence of the employee is needed; and whether the individuals are covered pursuant to collective bargaining negotiations. Immediate family shall mean spouse, civil union partner, child, parent or any person living in the employee's household for whom the employee has custodial responsibility.

- c) Participation in the sick leave bank is voluntary on the part of any employee. Employees wishing to participate must be permanent full-time or part-time employees with a minimum of 6 months of service.
- d) *A participating employee may deposit into the sick leave bank as much accrued sick leave as desired provided that the participating employee shall retain in his or her own account at least 5 sick days [5 ILCS 400/10(b)].*
- e) Employees may voluntarily enroll at any time. Employees shall wait 60 calendar days after enrollment before utilizing the sick leave bank.
- f) An employee may use up to 25 work days from the sick leave bank per 12-month period, except that participating employees shall not use sick leave accumulated in the sick leave bank until all of their accrued vacation, personal days, sick leave and compensatory time have been used. The Director may approve limits of other than 25 work days per 12-month period. Factors considered in determining if an alternate limit should be approved include:
 - 1) the personnel jurisdiction governing the agencyAgency and employees in question;
 - 2) whether limits have been established through collective bargaining negotiations;
 - 3) the desire for uniformity among agencyAgency plans;
 - 4) operational needs of the agencyAgency.
- g) Any sick leave in the sick leave bank used by a participating employee shall be only for the personal catastrophic illness or injury of the employee and may not be transferred, returned or used for any other purpose.
- h) Each State agency shall develop procedures, consistent with this Section, for establishing a single sick leave bank for all agency employees.
- i) Injuries and illnesses that are compensable under the Workers' Compensation Act [820 ILCS 305] or Workers' Occupational Disease Act [820 ILCS 310] shall not be eligible for sick leave bank use.
- j) *Participating employees who transfer from one agency to another may transfer their participation in the sick leave bank [5 ILCS 400/10(f)].*

- k) An employee shall not be eligible to withdraw the sick leave time he or she has contributed to the bank.
- l) Decisions affecting a participating employee's use of the sick leave bank may be submitted by the employee to a review committee. Unless otherwise approved by the Department, the committee shall consist of one ~~agency~~Agency representative and two Department representatives. In determining if alternative committee membership should be approved, the Department shall consider the jurisdiction governing the ~~agency~~Agency or employees in question. Decisions of review committees shall be final and binding.
- m) *Any abuse of the use of the sick leave bank shall be investigated by the agency and the Department, and upon a finding of wrongdoing on the part of a participating employee, that employee shall repay all sick leave days drawn from the sick leave bank and shall be subject to other disciplinary action [5 ILCS 400/10(h)].*

Section 303.131 Leave in the Event of a Stillborn Child

All employees who provided proof of their pregnancy or that of their female partner at least 30 days prior to the expected due date will be eligible for 4 weeks (20 work days) of paid leave in the event of a full-term stillborn child. The State shall require proof of a stillbirth, such as a fetal death certificate or certificate of stillbirth. This leave shall be limited to one~~+~~ leave per family or civil union partnership for each stillbirth. In addition, non-married male employees may be required to provide proof of paternity.

Section 303.148 Family Responsibility Leave

- a) An employee who wishes to be absent from work in order to meet or fulfill responsibilities, as defined in subsection (f), arising from the employee's role in his or her family or as head of the household will normally, upon request and in the absence of another more appropriate form of leave, be granted a Family Responsibility Leave (FRL) for a period not to exceed one year. Employees shall not be required to use any accumulated benefit time prior to taking FRL~~Family Responsibility Leave~~. Such request shall not be unreasonably denied. The agency head will consider whether the need for the FRL~~family responsibility leave~~ is substantial, whether the action is consistent with the treatment of other similar situations and whether the action is equitable in view of the particular circumstances prompting the request.
- b) Any request for FRL~~such leave~~ shall be submitted in writing by the employee not less than 15 calendar days in advance of the leave unless such notice is precluded by emergency conditions and shall state, stating the purpose of the leave, and the expected duration of absence.

- c) ~~FRL~~~~Such leave~~ shall be granted only to a permanent full-time employee, except that an intermittent employee shall be non-scheduled for the duration of the required leave. An employee in temporary, emergency, provisional, or trainee status shall not be granted ~~FRL~~~~such leave~~.
- d) "Family ~~responsibility~~~~Responsibility~~", for purposes of this Section, is defined as the duty or obligation perceived by the employee to provide care, full-time supervision, custody or non-professional treatment for a member of the employee's immediate family or household *under circumstances temporarily inconsistent with uninterrupted employment in State service*; [20 ILCS 415/8c(5)].
- e) "Family" has the customary and usual definition for this term for purposes of this Section, that is:
- 1) group of 2 or more individuals living under one roof, having one head of the household and usually, but not always, having a common ancestry, and including the employee's spouse or civil union partner;
 - 2) ~~the~~~~such~~ natural relation of the employee, even though not living in the same household, as parent, sibling or child; or
 - 3) adoptive, custodial and in-law individuals when residing in the employee's household or any relative or person living in the employee's household for whom the employee has custodial responsibility or persons where such person is financially and emotionally dependant on the employee when and where the presence of the employee is needed, but excluding persons not otherwise related of the same or opposite sex sharing the same living quarters but not meeting any other criteria for family.
- f) Standards for granting a Family Responsibility Leave are:
- 1) to provide nursing (breastfeeding) and/or custodial care for the employee's newborn infant, whether natural born or adopted;
 - 2) to care for a temporarily disabled, incapacitated or bedridden resident of the employee's household or member of the employee's family;
 - 3) to furnish special guidance, care or supervision of a resident of the employee's household or a member of the employee's family in extraordinary need of that guidance, care or supervision thereof;
 - 4) to respond to the temporary dislocation of the family due to a natural disaster, crime, insurrection, war or other disruptive event;
 - 5) to settle the estate of a deceased member of the employee's family or to act as conservator, if so appointed, when and providing the exercise of those~~such~~ functions precludes the employee from working; or

- 6) to perform family responsibilities consistent with the intention of this Section but not otherwise specified.
- g) The agency shall require substantiation or verification of the need by the employee for ~~FRLsuch leave. The, the~~ substantiation or verification shall be consistent with and appropriate to the reason cited in requesting the leave, such as:
 - 1) a written statement by a physician or medical practitioner licensed under the Medical Practice Act of 1987 [225 ILCS 60] or under similar laws of Illinois or of another state or country or by an individual authorized by a recognized religious denomination to treat by prayer or spiritual means. ~~The, such~~ verification ~~shall to~~ show the diagnosis, prognosis and expected duration of the disability requiring the employee's presence;
 - 2) written report by a social worker, psychologist, or other appropriate practitioner concerning the need for close supervision or care of a child or other family member;
 - 3) written direction by an appropriate officer of the courts, a probation officer or similar official directing close supervision of a member of the employee's household or family; or
 - 4) an independent verification substantiating ~~that~~ the need for ~~FRLsuch leave exists.~~
- h) ~~FRLSuch leave~~ shall not be renewed; however, a new leave shall be granted at any time for any reason consistent with subsection (f) other than that for which the original leave was granted.
- i) If an agency has reason to believe that the condition giving rise to the given need for ~~FRLsuch leave~~ no longer exists during the course of the leave, it should require further substantiation or verification and, if appropriate, direct the employee to return to work on a date certain.
- j) Failure of an employee, upon request by the employing agency, to provide ~~requiredsuch~~ verification or substantiation is cause, ~~with-on~~ due notice, for termination of the leave.
- k) ~~FRLSuch leave~~ shall not be used for purpose of securing alternative employment. An employee, during ~~FRL, such leave~~ may not be gainfully employed full time, otherwise the leave shall terminate.
- l) Upon expiration of ~~a FRLa Family Responsibility Leave, or,~~ prior to ~~such~~ expiration, by mutual agreement between the employee and the employing agency, the agency shall return the employee to the same or similar position classification that the employee held immediately prior to the commencement of

the leave. If ~~such a position~~~~there~~ is not ~~such position~~ available, the employee will be subject to layoff in accordance with 80 Ill. Adm. Code 302.Subpart J (Voluntary Reduction, ~~Transfer~~ and ~~Layoffs~~~~Layoff~~).

- m) Nothing in this Section shall preclude the reallocation or abolition of the position classification of the employee during ~~FRL, such leave~~ nor shall the employee be exempt from 80 Ill. Adm. Code 302.Subpart J (~~Voluntary Reduction and Layoff~~) by virtue of ~~FRL, such leave~~.
- n) The State shall continue payment of its portion of employee and dependent health and dental insurance premiums for up to 6 months while an employee is on a Family Responsibility Leave consistent with the Federal Family and Medical Leave Act of 1993 (29 USC 2601 et seq.) and subsections (f)(1), (2) and (3) of this Section. For leaves defined by subsections (f)(4), (5) and (6) of this Section, the State shall not continue payment of its portion of employee and dependent health and dental insurance premiums.

Section 303.250 Vacation Eligibility

- a) Employees, except emergency and temporary employees, shall earn vacation time. No employee on leave of absence may earn vacation except when the leave was for the purpose of accepting a temporary working assignment in another class.
- b) Eligible employee shall earn vacation time in accordance with the following schedule:
 - 1) From the date of hire until the completion of 5 years of continuous service: 10 workdays per year of employment.
 - 2) From the completion of 5 years of continuous service until the completion of 9 years of continuous service: 15 workdays per year of employment.
 - 3) From the completion of 9 years of continuous service until the completion of 14 years of continuous service: 17 workdays per year of employment.
 - 4) From the completion of 14 years of continuous service until the completion of 19 years of continuous service: 20 workdays per year of employment.
 - 5) From the completion of 19 years of continuous service until the completion of 25 years of continuous service: 22 workdays per year of employment.
 - 6) From the completion of 25 years of continuous service: 25 workdays per year of employment.

- c) Vacation time shall be earned in workdays and computed in hours. After an employee's earned vacation time has been so computed, if there remains a fractional balance of ½ hour or less, the employee shall be deemed to have earned vacation time of ½ hour in lieu of the fractional balance. ~~If;~~ ~~if~~ there remains a fractional balance of more than ½ hour, the employee shall be deemed to have earned a full hour of vacation time in lieu of a fractional balance.
- d) Computation of vacation time of State employees who have interrupted continuous State service shall be determined as though all previous State service that qualified for earning of vacation benefits is continuous with present service. This subsection (~~de~~) applies to vacation time earned on or after October 1, 1972.

Commissioner Dalianis inquired as to the reasons for the proposed Rule changes. Executive Director Stralka responded that Central Management Services representatives indicated that they were made to bring the Rules in compliance with recent legislative changes and to clean up certain grammatical issues. He then expounded on the Personnel Rule amendment process for the Commissioners.

XI. MEETING SCHEDULE FOR 2013 AND CONSIDERATION OF CHANGING THE START TIME OF MEETINGS HELD IN CHICAGO FOR 2013

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER KREY AND THE MOTION ADOPTED 4-0 TO APPROVE THE FOLLOWING MEETING SCHEDULE FOR CALENDAR YEAR 2013 AS PRESENTED.

January 18, 2013	Chicago	July 19, 2013	Chicago
February 15, 2013	Chicago	August 16, 2013	Chicago
March 15, 2013	Chicago	September 20, 2013	Chicago
April 19, 2013	Chicago	October 18, 2013	Chicago
May 17, 2013	Springfield	November 15, 2013	Springfield
June 21, 2013	Chicago	December 20, 2013	Chicago

There was a general discussion in which all the Commissioners participated about the start time for the Commission's Chicago meetings. It was the consensus of the Commissioners to start the meetings one-half hour earlier.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER KREY AND THE MOTION ADOPTED 4-0 TO ADOPT 10:30 AM AS THE START TIME FOR MEETINGS IN THE CHICAGO OFFICE IN 2013.

XII. PROPOSED REVISIONS TO CIVIL SERVICE COMMISSION RULES

Section 1.10 Meetings of the Commission

- a) The Illinois Civil Service Commission (Commission) shall hold an open and public meeting each month. The meetings shall be held in Chicago and/or Springfield.
- b) A schedule of meeting dates shall be made at the beginning of each calendar year stating the date, time, and place of the monthly meetings.
- c) Changes in regular meeting dates and the holding of special meetings shall be made in compliance with the Illinois Open Meetings Act [5 ILCS 120] and the Illinois Personnel Code [20 ILCS 415].
- d) Meetings may be held by telephone conference call or by video conferencing if done in compliance with all applicable laws.
- e) Unless he or she is an interested party in a contested case subject to Section 1.260 of the Rules of the Civil Service Commission, any person shall have the opportunity to comment at a public meeting pursuant to the Open Meetings Act (5 ILCS 120) so long as the comment is reasonable in duration and is limited to a subject on that meeting's agenda. Any such comment by a person shall be made at a time designated on the meeting's agenda and the Civil Service Commission shall have the ability to cut off a comment if it is irrelevant, repetitious or disruptive.

Section 1.170 ~~Cause for Discharge~~ Level of Discipline/Cause for Discharge

- a) ~~Cause for discharge consists of some substantial shortcoming which renders the employee's continuance in his or her position in some way detrimental to the discipline and efficiency of the service and which the law and sound public opinion recognize as good cause for the employee no longer holding the position.~~
- b) ~~In determining the appropriate level of discipline, the Commission shall consider the employee's performance record, including disciplinary history, and the employee's length of continuous service, unless the offense would warrant immediate discharge in accordance with subsection (a).~~

In determining the appropriate level of discipline, the Commission shall consider the nature of the offense, the employee's performance record, including disciplinary history, and the employee's length of continuous service. Cause for discharge means some substantial shortcoming which in some way renders the employee's continuance in the position detrimental to the discipline and efficiency of the service and which law and sound public opinion recognize as good cause for the employee's removal from the position.

Section 1.280 Record of Proceedings

- a) Whenever a hearing is held under the Personnel Code or this Part, it shall be recorded by a court reporter or other means that adequately preserves the record. The Administrative Law Judge or Commission may order that any recording be transcribed. The agency that is a party to the hearing shall bear all costs related to the production of the transcript of the proceedings, including but not limited to the costs of the court reporter and original transcript. Parties who order copies of the transcript are responsible for the cost of the copies. The transcript provided to the Commission shall be transcribed in full page format. A party who has requested an order of protection (request that certain information remain confidential during and after the hearing) shall be responsible for redacting the protected information from the transcript.
- b) The written record of the proceeding shall be filed with the Commission within 10 days after receipt of the transcript of the final hearing by either the agency or its representative. Written notice of filing shall be served on all parties to the proceedings.
- c) Any record will be available for examination by the public at reasonable times in the Springfield office of the Commission. Upon written request made at least 48 hours (exclusive of Saturdays, Sundays and official State holidays) in advance, the Commission will make any record available for examination at its Chicago office.
- d) The transcript of proceedings on any matter before the Commission is complete upon the filing of the court reporter's transcript of the final day of hearing or the last filed written closing statement, whichever is later.

Assistant Executive Director Barris reviewed for the Commissioners the proposed changes to the Rules of the Civil Service Commission. Barris explained that the change to Section 1.10 of the Rules of the Civil Service Commission was necessary to insure compliance with the Open Meetings Act. Barris explained that the change to Section 1.170 was necessary because a reviewing court could misconstrue the language as preventing the Commission from evaluating an employee's disciplinary history even though the disciplinary history is integral to whether discharge is appropriate, i.e. attendance cases. Barris explained that the change to Section 1.280 was necessary to remove any ambiguity as to the starting point of the 60 day period for the Commission's decision in disciplinary cases pursuant to 20 ILCS 415/11. Chairman Kolker recommended adding the phrase "nature of the offense" to Section 1.170 which all the Commissioners affirmed.

IT WAS MOVED BY COMMISSIONER FITZGERALD, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 4-0 TO APPROVE THE PROPOSED REVISIONS TO THE CIVIL SERVICE COMMISSION RULES WITH THE INCLUSION OF THE PHRASE "NATURE OF THE OFFENSE" IN THE FIRST SENTENCE OF SECTION 1.170.

August 17, 2012

XIII. STAFF REPORT

Executive Director Daniel Stralka reported:

- He made a presentation to investigators, attorneys, and others at the Office of the Inspector General of the Department of Children and Family Services on July 26, 2012.
- The annual SECA charitable contribution campaign kicks off on September 7, 2012. Beckie will be forwarding informational materials to all Commissioners.
- To highlight the tight fiscal conditions the Commission operated under in fiscal year 2012, the Commission's recent history of lapsed appropriations is:

Fiscal year 2010 - \$32,300

Fiscal year 2011 - \$28,800

Fiscal year 2012 - \$ 301

The Commissioners expressed their appreciation for Staff's efforts in this regard.

Assistant Executive Director Andrew Barris reported:

- Will Arthur completed his unpaid internship with the Civil Service Commission on August 9, 2012. Will did an exceptional job in the area of record retention. As a result of Will's efforts, the Civil Service Commission was able to update case file records from 1989-1995.

XIV. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular open meeting to be held on Friday, September 21, 2012 at 11:00 a.m. in the Commission's Chicago office.

XV. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 4-0 TO ADJOURN THE MEETING AT 12:05 P.M.