

September 16, 2011

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
September 16, 2011

I. OPENING OF MEETING AT 11:03 A.M. AT 160 N. LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; Roneta Taylor (by telephone), Illinois Department of Central Management Services; Anne McElroy (by telephone), Bryan Gleckler (by telephone), Tim Gleason, and Luke Hartigan, Illinois Department of Corrections; and Jeanine Hamm (by telephone) and Connie Westfall (by telephone), Illinois Department of Revenue.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD ON AUGUST 19, 2011

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 5-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 19, 2011.

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

A. Report on Exempt Positions from Central Management Services

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging.....	146.....	10
Agriculture	462.....	17
Arts Council	19.....	2
Capitol Development Board	46.....	0
Central Management Services	1,605.....	113
Children and Family Services.....	2,928.....	49
Civil Service Commission.....	4.....	0
Commerce & Economic Opportunity	430.....	67
Commerce Commission	79.....	0
Corrections	12,149.....	103
Criminal Justice Authority.....	61.....	5
Deaf and Hard of Hearing Comm.....	8.....	1
Developmental Disabilities Council	9.....	1
Emergency Management Agency.....	91.....	7
Employment Security	1,891.....	25
Environmental Protection Agency.....	901.....	16
Financial & Professional Regulation	469.....	42
Gaming Board	115.....	5
Guardianship and Advocacy	104.....	7
Healthcare and Family Services	2,248.....	27
Historic Preservation Agency.....	250.....	11
Human Rights Commission.....	14.....	2
Human Rights Department.....	150.....	8
Human Services.....	13,448.....	77
Illinois Sentencing Policy Advisory Council.....	1.....	2
Illinois Torture Inquiry Relief Commission	2.....	1
Insurance	255.....	12
Investment Board	3.....	1
Juvenile Justice.....	1,295.....	20
Labor	79.....	8
Labor Relations Board Educational	11.....	2
Labor Relations Board State.....	20.....	2
Law Enforcement Training & Standards Bd.	18.....	2
Medical District Commission.....	2.....	0
Military Affairs.....	122.....	3
Natural Resources.....	1,450.....	29
Pollution Control Board	21.....	1
Prisoner Review Board.....	19.....	0
Property Tax Appeal Board.....	29.....	1
Public Health	1,111.....	41
Racing Board.....	2.....	0
Revenue.....	2,036.....	62
State Fire Marshal	142.....	12
State Police.....	1,275.....	5
State Police Merit Board	5.....	1
State Retirement Systems	89.....	2
Transportation	2,366.....	0
Veterans' Affairs	1,306.....	8
Workers' Compensation Commission	174.....	8
TOTALS.....	49,460.....	818

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)

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B. Requests for 4d(3) Exemption

- As to Item C, this request is for the Information Technology Director at the Department of Insurance, a position that reports to the Chief Deputy Director who reports to the Director. This position essentially functions as the Chief Information Officer for the agency, a function that has historically supported principal policy exemption. For this reason, Staff recommended approval of this request. There was some concern that it may ultimately be included in the Senior Public Service Administrator bargaining unit and the agency has been advised that if that occurs, it may have a negative impact on its continued exemption. The agency advised Staff that it is proceeding with a request that it be excluded from any bargaining unit.
- As to Item D, this request is for the Central Deputy Director at the Department of Corrections, a position that reports to the Chief of Operations who reports to the Executive Assistant who reports to the Director. With this request, the agency is seeking to add a geographical Deputy Director for the Central region which would be on the same organizational level and have the same responsibilities as the current North and South Deputy Directors, both of which are 4d(3) exempt. These Deputy Directors have principal policy responsibility in that they function as the immediate liaison for the Correctional Institutions under them to the agency's statewide leadership team. There is a relatively new Director at Corrections and he has instituted this minor reorganization. In the past, there have been as many as four regional 4d(3) exempt positions that performed this function and now there will be three. The only difference is that there now exists an additional 4d(3) exempt position in the reporting structure between these Deputy Directors and the agency Director – the Executive Assistant position – which places these Deputy Directors three levels removed from the Agency Director. Considering the history of these functional positions, Staff recommended approval of this request. Staff has been assured that no further requests tied to any reorganization under this new Director are anticipated. In response to a question from the Chairman, Anne McElroy, Chief of Labor Relations for Illinois Department of Corrections, indicated that these positions have been filled by long-time career employees at the agency.
- As to Item E, this request is for the Illinois Correctional Industries (ICI) Financial Officer at the Department of Corrections, a position that reports to the ICI Chief Executive Officer who reports to the Director. The fiscal officer of a specific program in an agency would not normally qualify for exemption, especially when the agency already has a 4d(3) exempt overall Chief Fiscal Officer. However, in 2010 the legislature passed Public Act 96-877 which addressed the mission of the ICI. This Act also specifically provided that its fiscal processes are to be “separate and apart” from that of Corrections. Considering this legislative mandate along with the size of the program – 950 inmate employees, 150 state employees, and a \$48,000,000 budget – Staff recommended approval of this request. Chairman Kolker noted how the legislation changed the framework of the program. Tim Gleason, Chief Executive Officer of ICI, added that they had \$45,000,000 in sales the past two years. Commissioner Dalianis inquired as to what items the ICI produces. Gleason listed office equipment, dormitory furniture, optical products,

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metal fabrication, and uniforms as just some of the products it sells. In response to a question from Chairman Kolker, Gleason acknowledged that announced facility closures would affect the program.

- As to Item F, this request is for the Chief Labor Relations Administrator for the Department of Children and Family Services, a position that reports to the Deputy Director of Human Resources who reports to the Director. This position is responsible for all labor relations programs within the agency including conducting contract negotiations with the authority to bind the agency. Considering that the Commission has historically approved such positions in the past, Staff recommended approval of this request.
- As to Item G, this request was withdrawn.
- As to Item H, this request is to reinstate the exemption for the Manager of the Office of Community Outreach in the Department of Natural Resources. This exemption was rescinded on November 19, 2010 due to extended vacancy. The agency had not responded to the Commission's notice of the proposed rescission. However, it was recently discovered that the position was not vacant at the time – it had been filled on March 1, 2010 but that information had yet to be posted on the system. The agency is requesting that the rescission be reversed retroactive to November 19, 2010. Staff recommended approval of this request.
- As to Item I, this request is for the rescission of the exemption of the Assistant Center Director for the Ludeman Developmental Center at the Department of Human Services. This is in line with an agreement reached with the agency when the Commission approved the exemption for the Associate Deputy Director of State Operated Developmental Center Operations in June 2010. Staff recommended approval of this request.

Executive Director Daniel Stralka followed up on an exemption granted on May 20, 2011 for the Coordinator of Real Estate Appraisal in the Department of Professional Regulation. This was a statutory position which had been amended to reflect that the position went from a four-year term to “a position subject to the Personnel Code.” An issue arose at that time whether the position would qualify for exemption under this language. After the Staff analysis suggested it would, the Commission granted the exemption request. Upon an inquiry from the Chairman, the agency inquired of the legislative sponsor if they were agreeable with that interpretation. The sponsor responded affirmatively and the agency forwarded that information to Commission Staff. This is being made of record should any future requests be submitted for positions with similar statutory language.

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

- C: Information Technology Director (Department of Insurance)**
- D: Central Deputy Director (Corrections)**
- E: Illinois Correctional Industries Financial Officer (Corrections)**
- F: Chief Labor Relations Administrator (Children & Family Services).**

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 5-0 TO GRANT THE REQUEST TO REVERSE THE RESCISSION OF EXEMPTION FROM JURISDICTION B OF THE PERSONNEL CODE FOR THE FOLLOWING POSITION EFFECTIVE NOVEMBER 19, 2010:

- H. Manager, Office of Community Outreach (Natural Resources).**

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO GRANT THE REQUEST TO RESCIND THE EXEMPTION FROM JURISDICTION B OF THE PERSONNEL CODE FOR THE FOLLOWING POSITION:

- I. Ludeman Assistant Center Director (Human Services).**

The following 4d(3) exemption requests were granted on September 16, 2011:

C. Illinois Department of Insurance

Position Number	40070-14-16-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Information Technology
Functional Title	Information Technology Director
Incumbent	Vacant
Supervisor	Chief Deputy Director who reports to the Acting Director
Location	Sangamon County

D. Illinois Department of Corrections

Position Number	40070-29-04-300-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Bureau of Operations
Functional Title	Central Deputy Director
Incumbent	Vacant
Supervisor	Chief of Operations, who reports to the Executive Assistant, who reports to the Director
Location	Sangamon County

E. Illinois Department of Corrections

Position Number	40070-29-06-100-10-01
Position Title	Senior Public Service Administrator
Bureau/Division	Correctional Industries
Functional Title	Illinois Correctional Industries (ICI) Financial Officer
Incumbent	Vacant
Supervisor	Chief Executive Officer who reports to the Director
Location	Sangamon County

F. Illinois Department of Children & Family Services

Position Number	40070-16-07-100-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Labor Relations
Functional Title	Chief Labor Relations Administrator
Incumbent	Vacant
Supervisor	Deputy Director of Human Resources, who reports to the Director
Location	Cook County

The following request for reversal of rescission of exemption from Jurisdiction B of the Personnel Code effective November 19, 2010 was granted on September 16, 2011:

H. Illinois Dept. of Natural Resources

Position Number	40070-12-01-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Office of Community Outreach
Functional Title	Manager, Office of Community Outreach
Incumbent	Jeffrey R. Jones
Supervisor	Director
Location	Cook County

The following request for rescission of exemption from Jurisdiction B of the Personnel Code was granted on September 16, 2011:

I. Illinois Department of Human Services

Position Number	40070-10-72-000-00-21
Position Title	Senior Public Service Administrator
Bureau/Division	Division of Developmental Disabilities
Functional Title	Ludeman Assistant Center Director
Incumbent	Glenda Corbett
Supervisor	Chief Executive Officer who reports to the Director
Location	Cook County

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V. CLASS SPECIFICATIONS

- None submitted.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER PETERSON, 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 GO INTO EXECUTIVE SESSION

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE THE MOTION ADOPTED 5-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 11:25 a.m.

PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, 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 Department of Central Management Services' Consecutive Non-Merit Report.

Agency	7/31/11	8/31/11	8/31/10
Aging	1	1	0
Agriculture	5	4	0
Central Management Services	3	3	0
Children and Family Services	6	5	3
Commerce & Economic Opportunity	1	0	0
Employment Security	25	5	2
Healthcare and Family Services	5	4	1
Historic Preservation Agency	6	7	0
Human Services	12	2	0
Natural Resources	20	29	5
Property Tax Appeal Board	13	5	0
Revenue	1	1	0
State Fire Marshal	1	1	0
Transportation	1	1	0
Veterans' Affairs	1	1	0
Workers' Compensation Commission	2	1	0
Totals	103	70	11

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEALS

DA-48-11

Employee	Lamont L. Wallace	Appeal Date	05/02/11
Agency	Human Services	Decision Date	09/02/11
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Time abuse and tardiness	Proposal for Decision	Charges are partially proven and warrant discharge.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 5-0 TO REMAND THIS MATTER BACK TO THE ADMINISTRATIVE LAW JUDGE FOR THE PURPOSE OF TAKING ADDITIONAL EVIDENCE ON THE ISSUE OF THE RESPONDENT'S ACTIONS ON FEBRUARY 25, 2011. IT APPEARS FROM THE PROPOSAL FOR DECISION AND THE RESPONDENT'S WRITTEN RESPONSE THAT HE WAS UNDER THE IMPRESSION THAT QUESTIONS HE ASKED AND STATEMENTS HE MADE DURING THE HEARING WERE THE EQUIVALENT OF TESTIMONY UNDER OATH. RENDERING A FINAL DECISION IN THIS MATTER WITHOUT CONSIDERING THE RESPONDENT'S SWORN TESTIMONY ON THIS ISSUE WOULD DEPRIVE THE RESPONDENT, WHO REPRESENTED HIMSELF, OF THE RIGHT TO BE HEARD IN HIS OWN DEFENSE AS SET FORTH IN SECTION 11 OF THE PERSONNEL CODE. THE ADDITIONAL EVIDENCE WILL ASSIST THE COMMISSION IN RENDERING ITS DECISION IN THIS MATTER.

RV-12-11 (CONSOLIDATED WITH RV-13-11)

Employee	Daniel Dyslin	Appeal Date	07/26/10
Agency	Human Services	Decision Date	08/23/11
Type	Rule Violation	ALJ	Andrew Barris
Allegation(s)	Mandatory Furlough Program violates Personnel Code Sections 302.500-302.610	Proposal for Decision	No violation.

RV-13-11 (CONSOLIDATED WITH RV-12-11)

Employee	Lois McCarthy	Appeal Date	07/26/10
Agency	Human Services	Decision Date	08/23/11
Type	Rule Violation	ALJ	Andrew Barris
Allegation(s)	Mandatory Furlough Program violates Personnel Code Sections 302.500-302.610	Proposal for Decision	No violation.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER PETERSON, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION DATED AUGUST 23, 2011 THAT PETITIONERS HAVE NOT PROVEN BY A PREPONDERANCE OF THE EVIDENCE THAT A VIOLATION OF THE PERSONNEL CODE OR PERSONNEL RULES OCCURRED AS ALLEGED.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

X. MEETING SCHEDULE FOR CALENDAR YEAR 2012

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO APPROVE THE FOLLOWING MEETING SCHEDULE FOR CALENDAR YEAR 2012 (CHICAGO MEETINGS TO BEGIN AT 11:00 AM AND SPRINGFIELD MEETINGS TO BEGIN AT 1:30 PM).

January 20, 2012	Chicago	July 20, 2012	Chicago
February 17, 2012	Chicago	August 17, 2012	Chicago
March 16, 2012	Chicago	September 21, 2012	Chicago
April 20, 2012	Chicago	October 19, 2012	Chicago
May 18, 2012	Springfield	November 16, 2012	Springfield
June 15, 2012	Chicago	December 21, 2012	Chicago

XI. FY 2011 ANNUAL REPORT

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 5-0 TO APPROVE THE FISCAL YEAR 2011 ANNUAL REPORT.

XII. STAFF REPORT

Executive Director Daniel Stralka reported:

- SB2972 which affects holdover Commissioners has an effective date of August 26, 2011. The Governor must make new appointments by October 25, 2011 or all holdover Commissioners will cease to serve by operation of law.

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- The Governor announced the planned layoffs of 1938 State employees due to lack of funds. Included in that number was the planned layoff of one employee of the Commission. Additional details of the Commission's layoff plan were provided to all Commissioners who then engaged in a general discussion of actions that may be taken to avert this layoff given the Commission's history of fiscal stewardship and anticipated dramatic increase in appeals that traditionally accompanies such mass layoffs.
- The Auditor General recently released his Management Audit of 309 State Boards and Commissions for fiscal years 2007 through 2009. This report noted that the Civil Service Commission met its statutory meeting and work product requirements for this period of time and had no Commissioner vacancies.
- The Commission recently filed its 2011 Affirmative Action plan.
- The SECA campaign for this year began September 9. Donation forms will be mailed to Commissioners prior to the next meeting.

XIII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on Friday, October 21, 2011 at 11:00 a.m. in the Commission's Chicago office.

XIV. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 11:40 A.M.