

April 19, 2007

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
April 19, 2007

I. OPENING OF MEETING AT 9:02 A.M. AT 160 NORTH 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 of the Commission staff; Daniel Bluthardt, Director of the Division of Professional Regulation, and Andy Fox, Chief of Staff of the Illinois Department of Financial and Professional Regulation.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD MARCH 15, 2007

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER PETERSON AND THE MOTION ADOPTED 4-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 15, 2007. COMMISSIONER DALIANIS ABSTAINED.

IV. APPROVAL OF MINUTES OF MEETING HELD APRIL 4, 2007

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS AND THE MOTION ADOPTED 5-0 TO APPROVE THE MINUTES OF THE MEETING HELD ON APRIL 4, 2007.

April 19, 2007

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

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging	153.....	9
Agriculture	463.....	17
Arts Council	23.....	2
Capitol Development Board.....	32.....	0
Central Management Services.....	1,581.....	111
Children and Family Services	3,317.....	41
Civil Service Commission	4.....	0
Commerce & Economic Opportunity	422.....	64
Commerce Commission.....	52.....	0
Corrections.....	12,346.....	101
Criminal Justice Authority	64.....	6
Deaf and Hard of Hearing Comm.	6.....	1
Developmental Disabilities Council.....	10.....	1
Emergency Management Agency	102.....	1
Employment Security.....	1,713.....	26
Environmental Protection Agency	1,068.....	18
Financial & Professional Regulation.....	789.....	42
Guardianship and Advocacy	113.....	7
Healthcare and Family Services.....	2,367.....	29
Historic Preservation Agency	251.....	11
Human Rights Commission	11.....	2
Human Rights Department.....	136.....	8
Human Services	14,606.....	66
Investment Board.....	4.....	2
Juvenile Justice	1,296.....	18
Labor.....	71.....	8
Labor Relations Board Educational	14.....	2
Labor Relations Board Local	1.....	0
Labor Relations Board State	19.....	2
Law Enforcement Training & Standards Bd.....	20.....	1
Medical District Commission	2.....	0
Military Affairs	142.....	3
Natural Resources	1,443.....	27
Pollution Control Board.....	26.....	3
Prisoner Review Board	22.....	0
Property Tax Appeal Board	26.....	2
Public Health.....	1,097.....	35
Revenue	2,038.....	63
State Fire Marshal	157.....	11
State Police.....	1,479.....	6
State Police Merit Board	5.....	1
State Retirement Systems.....	81.....	1
Transportation	3,723.....	1
Veterans' Affairs.....	1,171.....	5
Workers' Compensation Commission	174.....	11
TOTALS	52,640.....	765

B. Governing Rule - Jurisdiction B Exemptions

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
1. The Governor, or
 2. A departmental director or assistant director appointed by the Governor, or
 3. A board or commission appointed by the Governor, or
 4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
 5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
 6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
 7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.
- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
 2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board or commission.
 3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

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C. Requests for 4d(3) Exemption

- With regard to Item C, Executive Director Daniel Stralka reported that staff had recommended denial of this request since the agency failed to respond to staff inquiries regarding this issue at the March, 2007 meeting of the Commission. As the agency has yet to respond, staff again recommended denial of this request.
- With regard to Item D2, Executive Director Daniel Stralka reported the Department of Financial and Professional Regulation requested at the meeting that this matter be continued for an additional month to confirm a plan of action to address pending issues of overlap with another presently 4d(3) exempt position. For that reason, staff recommended that this request be continued.
- With regard to Item D3, Executive Director Daniel Stralka reported that after consideration of additional materials submitted by the agency which detailed this position's role in the regulation of expanded pharmaceutical based initiatives of the Governor's Office, staff recommended approval of this request.
- With regard to Item D4, Executive Director Daniel Stralka reported that after consideration of additional materials submitted by the agency, it was the staff's position that the programmatic responsibilities of the position were insufficient to support 4d(3) exemption and recommended denial of this request. However, the nature of the position is such that reasoned individuals could reach a different conclusion as to the impact of the position's programmatic responsibilities. For that reason, representatives of the agency were invited to make a brief presentation to the Commission, outlining their basis for this request and to respond to any questions the Commissioners may have.

Daniel Bluthardt, Director of the Division of Professional Regulation, and Andrew Fox, Chief of Staff of the Department of Financial and Professional Regulation, appeared and made a presentation to the Commissioners. Director Bluthardt detailed organizational changes made at the agency since the creation of the Department of Financial and Professional Regulation and their impact on this position. He also noted that this is a unique position in that it performs both licensing and regulatory functions for covered athletic events. Director Bluthardt also noted that there has been an increase in boxing matches in the State as well as pending legislation which would add the licensing and regulation of mixed martial arts events under the authority of this position. In response to questions from Chairman Kolker and all the Commissioners, Director Bluthardt and Chief of Staff Fox informed the Commission that this position would have the responsibility to set all the standards for the presentation of these and related events. The position is responsible for the protection of the public, the audience and participants in regulated events, and has the authority to stop a match if circumstances warrant. The position also has some promotional responsibilities as it will also act to attract events to be staged in Illinois, thereby benefiting the State economically and raising its stature in the field.

- With regard to Item E, Executive Director Daniel Stralka reported that the agency had yet to respond to Staff inquiries so staff recommended that this request be continued.
- With regard to Item F, Executive Director Daniel Stralka reported that this position reports to a statutory Assistant Director and is responsible for a major program of the agency (Recidivism and Re-Entry Services). For these reasons, staff recommends approval of this request with the caveat (communicated to the agency) that the creation and exemption of this position may negatively impact the continued exemption of its two subordinate positions - Placement Resource Program Manager (40070-29-00-500-00-01) and Planning and Research Program Manager (40070-29-00-000-60-01). The Agency is aware of this and is reviewing the matter.
- With regard to Item G, Executive Director Daniel Stralka reported that this position reports to the Director of the Illinois Historic Preservation Agency and directs all operational and program activities of the agency. For these reasons, staff recommends approval of this request with the caveat (communicated to the agency) that the creation and exemption of this position may negatively impact the continued exemption of the Marketing and Community Relations Division Manager (40070-48-56-000-00-01) position.
- With regard to Item H, Executive Director Daniel Stralka reported that this position reports to a statutory Assistant Director and will be directing a new program - the New Business Framework Model - being established by the agency. The agency represented that it does not anticipate any other principal policy exemption requests for this program even if staff increases. For these reasons, staff recommends approval of this request.
- Commissioners Peterson and Bukraba noted the benefit of agencies with pending exemption requests having knowledgeable representatives attend Commission Meetings to respond to Commissioner inquiries.

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

The following 4d(3) exemption requests were granted on April 19, 2007:

D3. Illinois Department of Financial and Professional Regulation

Position Number	40070-13-40-950-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Professional Regulation
Functional Title	Director of Pharmacy Investigations
Incumbent	Yashwant M. Amin
Supervisor	Director of State-wide Enforcement (who reports to Director, who in turn reports to Secretary)
Location	Cook County

D4. Illinois Department of Financial and Professional Regulation

Position Number	40070-13-40-960-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Professional Regulation
Functional Title	Director of Athletics
Incumbent	Ronald A. Puccillo
Supervisor	Director of State-wide Enforcement (who reports to Director, who in turn reports to Secretary)
Location	Cook County

F. Illinois Department of Corrections

Position Number	40070-29-00-000-00-02
Position Title	Senior Public Service Administrator
Bureau/Division	Assistant Director's Office
Functional Title	Chief, Statewide Resources and Program Development
Incumbent	None
Supervisor	Assistant Director (who reports to Director)
Location	Cook County

G. Illinois Historic Preservation Agency

Position Number	40070-48-00-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Deputy Director
Incumbent	None
Supervisor	Director
Location	Sangamon County

H. Illinois Department of Human Services

Position Number	40070-10-02-100-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Assistant Secretary's Office
Functional Title	Project Manager for the DHS New Framework Business Model
Incumbent	None
Supervisor	Assistant Secretary (who reports to the Secretary)
Location	Cook County

The following 4d(3) exemption requests were continued on April 19, 2007:

D2. Illinois Department of Financial and Professional Regulation

Position Number	40070-13-40-940-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Professional Regulation
Functional Title	Director of Real Estate Investigations
Incumbent	None
Supervisor	Director of State-wide Enforcement (who reports to Director, who in turn reports to Secretary)
Location	Cook County

E. Illinois Environmental Protection Agency

Position Number	40070-46-00-000-00-04
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Assistant to the Director/Policy Advisor
Incumbent	None
Supervisor	Director
Location	Cook County

The following 4d(3) exemption request was denied on April 19, 2007:

C. Illinois Department of Healthcare and Family Services

Position Number	40070-33-00-900-00-21
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Deputy Director for Policy
Incumbent	None
Supervisor	Director
Location	Cook County

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VI. CLASS SPECIFICATIONS

- None submitted.

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

VII. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, 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		

VIII. 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 10:00 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 of the Commission staff.

IX. 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	2/28/07	3/31/07	3/31/06
Agriculture	2	1	8
Arts Council	1	1	1
Central Management Services	1	1	3
Children and Family Services	8	7	8
Commerce and Economic Opportunity	0	1	2
Emergency Management Agency	0	0	1
Employment Security	2	2	0
Financial and Professional Regulation	1	1	2
Healthcare and Family Services	6	3	8
Historic Preservation	1	1	0
Human Services	3	2	5
Natural Resources	3	1	3
Property Tax Appeal Board	2	2	1
State Fire Marshal	1	0	0
State Retirement Systems	1	2	0
Transportation	90	57	60
Veterans' Affairs	2	1	2
Totals	124	83	104

X. REMANDED APPEAL OF DARYL SCHOLTENS¹

DA-33-06

Petitioner	Daryl Scholtens	Appeal Date	2/28/06
Agency	DCFS	Decision Date	8/07/06
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Falsification of records; poor work performance	Recommended Decision	Charges partially proven; unique factual circumstances warrant a 90-day suspension.
Meeting Date	8/17/06	Commission Decision	Charges partially proven; discharge upheld.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE DECISION DETAILING THE SPECIFIC FINDINGS OF FACT AND CONCLUSIONS OF LAW AND SETTING FORTH THE BASIS FOR ITS CONCLUSION THAT JUST CAUSE FOR DISCHARGE EXISTS. COMMISSIONER DALIANIS ABSTAINED.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	
BUKRABA	YES		

XI. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

• **RULE VIOLATION APPEAL**

RV-13-07

Employee	Vincent Cacioppo	Appeal Date	11/27/06
Agency	DOR	Decision Date	03/27/07
Type	Rule Violation	ALJ	Andrew Barris
Charge(s)	Alleges violation of Section 301.170 of Personnel Rules in that his pay is not fair and equitable	Proposed Finding	No violation.

¹ Discharge upheld by the Commission on August 17, 2006; on administrative review (06-MR-482), remanded back to the Commission for a decision detailing its specific findings of fact and conclusions of law, and to set forth the basis for its conclusion that just cause for discharge exists.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSED FINDING THAT THE PETITIONER HAS NOT PROVED BY A PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT VIOLATED SECTION 301.170 OF THE PERSONNEL RULES. THEREFORE IT IS THE FINDING THAT NO VIOLATION OF THE PERSONNEL CODE OR PERSONNEL RULES OCCURRED.

KOLKER	YES	RICHARDS	YES
PETERSON	YES	EWELL	YES
BUKRABA	YES		

XII. APPEALS TERMINATED WITHOUT DECISION ON THE MERITS

• WITHDRAWN

DA-19-07

Employee	Andre' Toguem	Appeal Date	12/20/06
Agency	DHS	Decision Date	03/28/07
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Failure to return to work after educational leave of absence	Recommended Decision	Dismissed subject to Commission approval; withdrawn (settlement).

• WITHDRAWN

DA-23-07

Employee	Khalil Shalabi	Appeal Date	01/09/07
Agency	DHS	Decision Date	04/10/07
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Personal use of state time and equipment for personal business and political activity; falsified timesheets	Recommended Decision	Dismissed subject to Commission approval; withdrawn (settlement).

• **WITHDRAWN**

DA-31-07

Employee	Manuel Acevedo	Appeal Date	03/13/07
Agency	DHS	Decision Date	04/10/07
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Conduct unbecoming a state employee	Recommended Decision	Dismissed subject to Commission approval; withdrawn (settlement).

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER PETERSON, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO APPROVE AND ADOPT THE DISMISSALS OF THE TOGUEM APPEAL, THE SHALABI APPEAL AND THE ACEVEDO APPEAL.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

XIII. STAFF REPORT

Executive Director Daniel Stralka reported that:

- The State Records Commission approved our revised Application for Retention policy of appeal files (retain ten years in the office, then shred) and the recommended decisions/proposed findings and signature sheets (retain ten years in office then transfer to Archives for permanent retention). We also received permission to destroy the duplicate, inactive personnel files from 1950 to 1983, payroll voucher distribution schedules, payroll vouchers and tentative payroll reports from 1992 through 2000.
- Beckie Daniken attended the SECA Awards Luncheon (State and University Employees Combined Appeal) held at the Executive Mansion on April 19. The Civil Service Commission was presented with an award for Outstanding Achievement for the 2006 campaign.
- Chairman Kolker, Daniel Stralka and Sandra Guppy attended the Senate Appropriation Committee hearing on March 21, 2007. The Commission's revised budget request for fiscal year 2008 is \$441,250 which represents a 15.8% increase over fiscal year 2007.
- No progress has been made in obtaining supplemental funds for Fiscal Year 2007.
- Commissioner time sheets must be submitted for meetings attended via conference call as well as attended in person.

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- Sandra Guppy attended the Benefits Seminar on April 17, 2007. The benefits change period will be May 1 through May 31, 2007.
- Statements of Economic Interest forms are due May 1, 2007.

XIV. PRESENTATION ON OPEN MEETINGS ACT

Assistant Executive Director Andrew Barris gave a brief presentation on the Open Meetings Act to the Commissioners.

XV. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on May 17, 2007 at 10:30 a.m. in the Commission's Springfield office.

XVI. MOTION TO ADJOURN

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 10:15 A.M.