

October 18, 2007

MINUTES  
ILLINOIS CIVIL SERVICE COMMISSION  
October 18, 2007

I. OPENING OF MEETING AT 9:05 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO ILLINOIS

II. PRESENT

Chris Kolker, Chairman (via telephone); Raymond W. Ewell, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris of the Commission staff; Jan Oncken, Central Management Services; Jack Munzer, Shared Services Project Director; and Robin Tucker-Smith and Frank Urso of Illinois Department of Public Health.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD SEPTEMBER 20, 2007

**IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL AND THE MOTION ADOPTED 3-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 20, 2007.**

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

**A. Report on Exempt Positions**

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging .....	152.....	9
Agriculture .....	522.....	17
Arts Council.....	21.....	2
Capitol Development Board .....	32.....	0
Central Management Services .....	1,584.....	109
Children and Family Services .....	3,236.....	41
Civil Service Commission .....	4.....	0
Commerce & Economic Opportunity .....	409.....	65
Commerce Commission.....	52.....	0
Corrections.....	12,100.....	103
Criminal Justice Authority .....	58.....	6
Deaf and Hard of Hearing Comm. ....	7.....	1
Developmental Disabilities Council .....	10.....	1
Emergency Management Agency .....	102.....	1
Employment Security.....	1,693.....	25
Environmental Protection Agency .....	1,032.....	19
Financial & Professional Regulation .....	781.....	49
Guardianship and Advocacy .....	112.....	7
Healthcare and Family Services.....	2,383.....	29
Historic Preservation Agency .....	338.....	12
Human Rights Commission .....	9.....	2
Human Rights Department .....	154.....	8
Human Services .....	14,687.....	67
Investment Board.....	3.....	2
Juvenile Justice .....	1,249.....	18
Labor.....	79.....	8
Labor Relations Board Educational .....	12.....	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 .....	140.....	3
Natural Resources .....	1,649.....	27
Pollution Control Board.....	22.....	3
Prisoner Review Board .....	21.....	0
Property Tax Appeal Board .....	24.....	2
Public Health.....	1,110.....	35
Revenue .....	2,059.....	63
State Fire Marshal.....	158.....	12
State Police .....	1,469.....	6
State Police Merit Board.....	5.....	1
State Retirement Systems .....	80.....	1
Transportation.....	2,674.....	1
Veterans' Affairs.....	1,142.....	5
Workers' Compensation Commission .....	173.....	11
TOTALS .....	51,589.....	776

**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.

\* \* \*

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

- With regard to Items C & D, Executive Director Daniel Stralka reported that these are the continued requests for the Department of Children & Family Services Chief of Asian-American Services and Chief of Disability Services, positions that report to the Chief of Affirmative Action, a position that is the equivalent of a statutory assistant director. They were continued from last month after Staff recommended denying these requests and the agency made a brief presentation so that the department could provide some supplemental information. The Department of Children & Family Services in fact supplied supplemental information which was considered by Staff, but the recommendation remained against approving these requests. This supplemental information and a copy of the Staff e-mail response to the Department of Children & Family Services were included in the Commissioner's materials.

It was the Staff determination that these requests still lack the principality requirement for a section 4d(3) exemption. They act more as a facilitator to a defined constituency group that the department has internally determined to increase its level of service to. The programs are not new – they are existing programs that the department already offers to the citizenry in general. This recommendation does not mean that the Department of Children & Family Services cannot establish these positions to perform the functions set forth in the position descriptions, only that they will be subject to the merit and fitness requirements of the Personnel Code.

In addition, last month, there was discussion about where to draw the line with respect to these positions since the Commission previously approved similar requests for positions serving the African-American and Hispanic constituencies. All 4d(3) exemption requests require the Commission to exercise its collective judgment in its ultimate determination to approve or deny them. While many requests fall clearly on one side of the line or the other, the majority tend to end up in the gray area in-between. Such is the case with these positions. It was the Staff's best recollection that section 4d(3) exemption was granted to the African-American and Hispanic requests based on the size of these constituencies. If the Commission is seeking to treat all four of these positions the same way with respect to their 4d(3) exempt status, then it would be the Staff recommendation to deny these two requests and rescind the exemptions of the African-American and Latino positions.

Chairman Kolker indicated that he was of the opinion that these positions qualified for exemption due to their similarity to the previously exempted African-American and Hispanic positions, and because all these positions have a significant impact on the discretionary direction of the department in carrying out the administration's policies. Executive Director Daniel Stralka responded that these were considered to be legitimate requests for exemption, but that the lack of any specific program addressing these constituencies along with the general tenor of the position descriptions indicates that they will be for the most part conducting outreach into these constituencies. Executive Director Daniel Stralka reminded the Commissioners that denials of these requests do not prevent the department from establishing these

positions to perform these functions, only that they will be subject to the merit and fitness requirements of the Personnel Code. Additional discussion ensued during which Commissioners Dalianis, Bukraba and Ewell indicated their concurrence with the Staff recommendation.

- With regard to Item E, Executive Director Daniel Stralka reported that this is the continued request for the Chief Accountability Officer, a position that reports to the Director of Department of Commerce & Economic Opportunity. This position has two main areas of responsibility: develop, formulate, implement, and maintain a grant accountability program for the agency's 10,000-20,000 active grants, and to coordinate all external audits for the agency. The largest responsibility lies with the Accountability Program, an agency initiative to develop a standardized monitoring program for grant and grantee accountability. This will include integrating the web-enabled technology for administering grants and measuring grantee performance with the overall goal of increasing the impact the agency's grant funds have for each grant program. For these reasons, Staff recommended approval.
- With regard to Item F, Executive Director Daniel Stralka noted that this is the continued request for the Deputy Director of Quality Assurance, a position that reports to the Director of the Department of Children & Family Services. This position has principal responsibility for the agency's statewide continuous quality improvement process, establishing goals, objectives, procedures, methods, and standards for both the child protection and child welfare programs. It also has responsibility for the accreditation and re-accreditation of statewide programs and services. For these reasons, Staff recommended approval.
- With regard to Items G1, G2, and H, Executive Director Daniel Stralka stated that Staff had questions about this request which the agency was unable to respond to prior to the meeting. The agency subsequently requested that these requests be continued so a meeting can be arranged to respond to these issues. For that reason, Staff recommended continuing these requests.
- With regard to Item I, Executive Director Daniel Stralka reported that this is the request for the Change Management Project Manager for the Public Safety Shared Services Center whose latest incarnation was first presented to the Commission at its June meeting. Last month the Commission approved a companion position to this request, the Risk Assessment Project Manager for 24 months. This is also a temporary position to assist in the Shared Services Center initiative, but while the Risk Assessment position was more focused on the integration of constituents and stakeholders into the transition, this Change Management position was more focused on integrating functions and processes into the transition. This position reports to the Deputy Director of Projects for the Public Safety Shared Services Center, and as was discussed last month, for purposes of conforming to the Commission's own rules, requires the Commission to treat each Shared Services Center Director as an agency director and this Deputy Director of Projects position as the equivalent of a statutory

assistant director. Also, as detailed last month, while it appears that this position would be better suited for a personal service contract, the pool of candidates for this position would come from current State employees who possess legacy knowledge of the various functions and processes being integrated and these candidates would not accept the position unless it came with all the benefits of full-time employment with the State. While the original request was for a four year exemption, in light of the unique nature of this position, Staff recommended approval of a more limited duration of 23 months to bring it in line with the Risk Assessment position. An extension can always be requested in the future if circumstances warrant. It is not anticipated that there will be any future additional requests for Change Managers at each Shared Services Center, and this will be the only Change Manager exemption request. Jack Munzer, Shared Services Project Director and Associate Director, Governor's Office of Management and Budget, was present at the meeting and concurred with the Staff presentation

- With regard to Item J, Executive Director Daniel Stralka indicated that this is the request for the Deputy Chief Counsel of the Illinois Department of Public Health, a position that reports to the Chief Counsel who is the equivalent of a statutory assistant director, reporting directly to the agency director. This position has been described by the agency as being responsible for all major agency litigation. It also, according to the position description, participates in the planning and programming of agency activities, specifically policy development related to the regulation of a variety of health care facilities under the agency's regulatory control.

Executive Director Daniel Stralka also noted that discussions regarding this position's eligibility for exemption continued late into the previous day such that the required notice to the incumbent of the Commission's proposed action was unable to be sent out. Frank Urso, the incumbent, appeared at the Commission meeting and in response to the Executive Director's inquiry, stated that he waived any right he had to prior notice of the Commission's proposed action and had no objection to the exemption request. With that, Staff recommended approval of this exemption request.

Executive Director Daniel Stralka continued, noting the distinction between the limited Jurisdiction B exemption under Section 4d(5) of the Personnel Code for attorney positions that serve as legal or technical advisors compared to the full Jurisdiction B exemption for attorney positions that are principal policy developers or implementers under Sections 4d(3) of the Personnel Code. Attorney positions that serve as legal or technical advisors will not be entitled to Section 4d(3) exempt status unless some independent basis for principal policy exemption exists beyond the legal or technical advisor responsibilities.

- With regard to the rescission requests of Items K1 and K2, Executive Director Daniel Stralka reported that these positions were submitted for rescission by Central Management Services as they no longer hold principal programmatic decision-making authority.

A review of the requests indicates that an adequate level of managerial control exists in exempt positions which will insure responsive and accountable administrative control of the agency's programs. For that reason, Staff recommended approval of the rescission requests.

**IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 3-1 TO DENY THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:**

<b>KOLKER</b>	<b>NO</b>	<b>EWELL</b>	<b>YES</b>
<b>PETERSON</b>		<b>DALIANIS</b>	<b>YES</b>
<b>BUKRABA</b>	<b>YES</b>		

**The following 4d(3) exemption requests were denied on October 18, 2007:**

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

Position Number	37015-16-05-400-00-01
Position Title	Public Service Administrator
Bureau/Division	Affirmative Action
Functional Title	Chief of Asian-American Services
Incumbent	None
Supervisor	Affirmative Action Chief who reports to the Director
Location	Cook County

**D. Illinois Department of Children & Family Services**

Position Number	37015-16-05-500-00-01
Position Title	Public Service Administrator
Bureau/Division	Affirmative Action
Functional Title	Chief of Disability Services
Incumbent	None
Supervisor	Affirmative Action Chief who reports to the Director
Location	Cook County

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

**The following 4d(3) exemption and rescission requests were granted on October 18, 2007:**

**E. Illinois Dept. of Commerce and Economic Opportunity**

Position Number	40070-42-00-800-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Chief Accountability Officer
Incumbent	None
Supervisor	Director
Location	Sangamon County

**F. Illinois Department of Children & Family Services**

Position Number	40070-16-08-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Division of Quality Assurance
Functional Title	Deputy Director, Division of Quality Assurance
Incumbent	None
Supervisor	Director
Location	Cook County

**J. Illinois Department of Public Health**

Position Number	40070-20-02-100-00-81
Position Title	Senior Public Service Administrator
Bureau/Division	Division of Legal Services
Functional Title	Deputy Chief Legal Counsel
Incumbent	Frank Urso
Supervisor	Chief Legal Counsel, who reports to the Director
Location	Sangamon County



**K1. Illinois Department of Central Management Services (rescission)**

Position Number	40070-37-31-000-01-01
Position Title	Senior Public Service Administrator
Bureau/Division	Bureau of Benefits/Group Insurance Division
Functional Title	Group Insurance Division Manager
Incumbent	None
Supervisor	Deputy Director of the Bureau of Benefits
Location	Sangamon County

**K2. Illinois Department of Central Management Services (rescission)**

Position Number	40070-37-33-000-01-02
Position Title	Senior Public Service Administrator
Bureau/Division	Bureau of Benefits/Deferred Compensation Division
Functional Title	Deferred Compensation Division Manager
Incumbent	None
Supervisor	Deputy Director of the Bureau of Benefits
Location	Sangamon County

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

**The following 4d(3) exemption requests were continued on October 18, 2007:**

**G1. Illinois Department of Central Management Services**

Position Number	40070-37-00-010-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Associate Director (BOSSAP, Property Mgmt., BEP)
Incumbent	None
Supervisor	Director
Location	Cook County

## **G2. Illinois Department of Central Management Services**

Position Number	40070-37-00-200-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Chief Administrative Officer
Incumbent	None
Supervisor	Director
Location	Cook County

## **H. Illinois Department of Central Management Services**

Position Number	40070-37-60-000-20-01
Position Title	Senior Public Service Administrator
Bureau/Division	Bureau of Property Management
Functional Title	Chief Operating Officer
Incumbent	None
Supervisor	Deputy Director, Bureau of Property Management who reports to the Director
Location	Sangamon County

**IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 4-0 TO GRANT THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION FOR A PERIOD OF 23 MONTHS:**

**The following 4d(3) exemption request was granted on October 18, 2007 for a period of 23 months:**

## **I. Illinois Department of Corrections**

Position Number	40070-29-40-410-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Public Safety Shared Services Center
Functional Title	Change Management Project Manager
Incumbent	None
Supervisor	Deputy Director of Projects for the Shared Services Center, who reports to Director of Shared Services Center, who in turn reports to the Governor
Location	Sangamon County

V. CLASS SPECIFICATIONS

- None submitted.

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

VI. MOTION TO GO INTO EXECUTIVE SESSION

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

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

VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 9:45 a.m.

PRESENT

Chris Kolker, Chairman (via telephone); Raymond W. Ewell, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; and Andrew Barris of the Commission staff.

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	8/31/07	<b>9/30/07</b>	9/30/06
Agriculture	8	<b>6</b>	5
Arts Council	0	<b>0</b>	1
Central Management Services	9	<b>8</b>	3
Children and Family Services	7	<b>7</b>	3
Financial and Professional Regulation	0	<b>0</b>	1
Healthcare and Family Services	15	<b>14</b>	5
Historic Preservation	22	<b>18</b>	14
Human Services	4	<b>3</b>	3
Natural Resources	29	<b>20</b>	29
State Retirement System	0	<b>0</b>	1
Transportation	67	<b>41</b>	90
Veterans' Affairs	0	<b>0</b>	1
Workers' Compensation Commission	1	<b>1</b>	0
Totals	162	<b>118</b>	156

IX. APPEALS TERMINATED WITHOUT DECISION ON THE MERITS

- **DISMISSED**

**DA-3-08**

Employee	Fannie Blake	Appeal Date	8/02/07
Agency	DCFS	Decision Date	10/02/07
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Falsification of information; conduct unbecoming; and poor work performance	Recommended Decision	Dismissed subject to approval of Commission; no jurisdiction (employee resigned before discharge).

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY CHAIRMAN KOLKER AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION TO GRANT THE MOTION TO DISMISS AS THE COMMISSION HAS NO JURISDICTION OVER THIS MATTER BECAUSE THE EMPLOYEE RESIGNED HER POSITION ON AUGUST 1, 2007.

KOLKER            YES  
PETERSON  
BUKRABA        YES

EWELL            YES  
DALIANIS        YES

- **DISMISSED**

**RV-36-07**

Petitioner	Algie Crivens, III	Appeal Date	4/02/07
Agency	DES	Decision Date	9/26/07
Type	Rule Violation	ALJ	Andrew Barris
Charge(s)	Negative performance evaluation was racially biased instead of merit based	Proposed Finding	Dismissed subject to approval of Commission; no jurisdiction (employee filed a CMS grievance).

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSED FINDING TO GRANT THE MOTION TO DISMISS AS THE COMMISSION HAS NO JURISDICTION OVER THIS MATTER.

KOLKER            YES  
PETERSON  
BUKRABA        YES

EWELL            YES  
DALIANIS        YES

X. STAFF REPORT

Assistant Executive Director Andrew Barris reported that:

- Sandra Guppy attended training with CMS Legal on the new standard contract template.
- Sandra Guppy submitted our FY 2007 report on Small Business Set-Aside Awards.
- Beckie Daniken attended a Grammar review course provided by CMS.
- The State and University Employees Combined Appeal (SECA) campaign began September 14 and will conclude on November 9, 2007. The 2006 campaign raised over \$3 million. The goal this year is \$3.25 million.
- The Auditor General now advises field work for the two year compliance audit will be scheduled at the end of November or beginning of December 2007.

XI. FY 2007 ANNUAL REPORT

**IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA AND THE MOTION ADOPTED 4-0 TO APPROVE THE FISCAL YEAR 2007 ANNUAL REPORT.**

XII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on November 15, 2007 at 10:30 a.m. in the Commission's new Springfield office.

XIII. MOTION TO ADJOURN

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS AND THE MOTION ADOPTED 4-0 TO ADJOURN THE MEETING AT 9:50 AM.**