# REGULAR MEETING MINUTES ILLINOIS CIVIL SERVICE COMMISSION December 20, 2013

# I. <u>CALL TO ORDER THE REGULAR OPEN MEETING AT 10:40 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS</u>

#### II. PRESENT

Garrett P. FitzGerald, Chairman; James B. Anderson, Anita M. Cummings, Susan Moylan Krey, and Casey Urlacher, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; Elizabeth Whitehorn, Roneta Taylor (by telephone), John Logsdon (by telephone), Mark Magill (by telephone) and Mike Quinlan (by telephone), Illinois Department of Central Management Services; Brent Eggleston (by telephone), Illinois Department of Agriculture; Dawn DeFraties (by telephone), Illinois Historic Preservation Agency; Jim Nicholson (by telephone) and Lainie Krozel (by telephone), Illinois Department of Revenue; John Thompson (by telephone), Illinois State Police; and Beth Duesterhaus (by telephone) Administrative & Regulatory Shared Services Center.

# III. <u>APPROVAL OF MINUTES OF REGULAR OPEN MEETING HELD NOVEMBER 15, 2013</u>

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER CUMMINGS, AND THE MOTION ADOPTED 5-0 TO APPROVE THE MINUTES OF THE REGULAR OPEN MEETING HELD NOVEMBER 15, 2013.

#### IV. PUBLIC COMMENT IN ACCORDANCE WITH THE OPEN MEETINGS ACT

At this time, in accordance with the Open Meetings Act and the Rules of the Civil Service Commission, Executive Director Daniel Stralka offered an opportunity for any person to address members of the Commission. Hearing no response, the meeting proceeded to the next agenda item.



# V. <u>EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE</u>

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

Agency	Total <u>Employees</u>	Number of Exempt Positions
Aging	138	16
Agriculture	328	17
Arts Council		
Capitol Development Board		
Central Management Services		
Children and Family Services		
Civil Service Commission		
Commerce & Economic Opportunity		
Commerce Commission		
Corrections		
Criminal Justice Authority		
Deaf and Hard of Hearing Comm		1
Developmental Disabilities Council		
Emergency Management Agency		
Employment Security		
Environmental Protection Agency		
Financial & Professional Regulation		
Gaming Board		
Guardianship and Advocacy		
Healthcare and Family Services		
Historic Preservation Agency		
Human Rights Commission		
Human Rights Department	141	9
Human Services	11,137	78
Illinois Torture Inquiry Relief Commission		
Insurance		
Investment Board	3	2
Juvenile Justice.		
Labor		
Labor Relations Board Educational		
Labor Relations Board State		
Law Enforcement Training & Standards Bd	17	2
Lottery		
Military Affairs		
Natural Resources		
Pollution Control Board	,	
Prisoner Review Board		
Property Tax Appeal Board		
Public Health		
Racing Board		
Revenue		
State Fire Marshal		
State Police		
State Police Merit Board		
State Retirement Systems		
Transportation		
Veterans' Affairs		
Workers' Compensation Commission	134	10
TOTALS	42,889	855



#### 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 III. Reg. 3485, effective March 3, 2010)

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

Executive Director Daniel Stralka reported the following regarding the proposed 4d(3) exemption requests:

• As to Item C, this request is for an Agency Procurement Officer at the Department of Agriculture, a position that reports to the Director. This position was granted an exemption in 2004 as the agency's purchasing officer, but that exemption was rescinded in 2010 due to extended vacancy. The agency is now seeking to reinstate the exemption. While this is usually a pro forma matter, the legislature passed SB51 in 2009 which made significant changes to the State's purchasing practices by removing some procurement authority from State agencies and placing it with the Executive Ethics Commission. That was a concern when Staff considered this request.

Staff inquired of the agency about the level of independent authority the requested position has to negotiate contracts and bind the agency, and whether this can occur without involvement of the State Purchasing Officer. The agency's response was that the position was in compliance with the mandates of SB51. The problem with that is SB51, in general, removed procurement authority from positions like this and placed it with another State entity. Staff is unable to make any determination at this time whether the remaining authority is sufficient to warrant granting it a principal policy exemption.

There are at least eight exempt agency purchasing officers in various other State agencies that perform essentially the same functions as this requested position.

There was also a minor concern that the position description was referring to an outdated Central Management Services sourcing division, but the agency agreed to remedy that by a future clarification.

• As to Item D, this request is for the Director of Education for the Abraham Lincoln Presidential Library & Museum in the Illinois Historic Preservation Agency, a position that reports to the Deputy Director who reports to the Museum Director who reports to the agency Director. This position has sole and principal policy responsibility for the development and implementation of educational programs presented by the Museum. These programs are delivered to students, visitors and the general public in a variety of different formats. Staff had some initial concerns with some minor overlap which the agency is correcting with the clarification of an existing exempt position. In addition, the agency indicated it only has three vacant exempt positions and is amenable to the rescission of one of those exemptions. For these reasons, Staff recommended approval of this request.

The following three exemption requests are all for legislative liaison positions. Historically, the Commission has been approving exemption requests for legislative liaison positions since before 1980. There had never been an issue with these requests until approximately ten years ago when the Illinois Labor Relations



Board began to include many of these exempt positions in collective bargaining units thereby eliminating the "at will" nature of the positions. This "at will" status is the hallmark of any principal policy exempt position and the Commission has consistently proclaimed that the inclusion of a position in a collective bargaining unit was inconsistent with a principal policy exemption. This issue is now in the process of resolution with the passage of PA 97-1172 effective April 5, 2013.

A provision of this Act defined a Legislative Liaison as an employee whose job duties require them to regularly communicate with any official or staff of the General Assembly for the purpose of influencing any legislative action. In some ways, this is a more restrictive definition than the Commission has utilized through the years when determining whether legislative positions are entitled to a principal policy exemption. However, it must be noted that this definition is not binding on the Civil Service Commission; it only applies to the Illinois Labor Relations Board in determining if a position is to be included or excluded in a collective bargaining unit. Its only importance to the Commission is that it identifies duties the legislature saw fit to memorialize as defining a legislative liaison, albeit for a limited purpose. The Civil Service Commission, on the other hand, has not been provided any such detailed definition when making its determination to approve or deny any exemption request. The sole criteria remain whether the position is principally responsible for the determination of policy or the way in which policies are carried out. This information is being provided to assist in that determination. It should be noted that for the most part, legislative positions that fit that definition have had their exemption requests approved.

- As to Item E, this request is from the Department of Revenue and is a position that reports to the Manager of the Legislative Office who reports to the Director. This position assists in the development of new legislation and monitors pending legislative proposals affecting the agency. It also testifies at legislative hearings at which it presents the agency's position on pending legislation, and communicates with legislative officers and staff for the purpose of influencing legislative action. In addition, the agency indicated that this position was excluded from its collective bargaining unit by the Labor Board because its job duties fit the definition of legislative liaison in PA 97-1172. While this determination is not binding on the Commission, it was considered in concluding that this position has sufficient principal policy responsibility to qualify for exemption so Staff recommended approval of this request. Staff also notes that the agency presently has five exempt positions in its legislative office. The agency indicated that it needs this many because last year it had 18 legislative initiatives of its own and tracked another 800 pieces of legislation.
- As to Item F, this request is from the Illinois State Police and is a position that reports to a sworn Chief of Governmental Affairs who reports to the Director. This position will be communicating with officials and staff of the General Assembly for the purposes of influencing any legislative action affecting the State Police. However, its collective bargaining status has not been established by the Labor Board yet.



For these reasons, Staff recommended approval of this request but for a term of six months only. The agency is in agreement with this term.

 As to Item G, this request is from the Illinois Workers' Compensation Commission and is a position that reports to the Chairman. This position will also be testifying at legislative hearings to advocate the Commission's position on proposed legislation affecting the agency as well as communicate with officials and staff of the General Assembly for this purpose. For these reasons, Staff recommended approval of this request.

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER CUMMINGS, AND THE MOTION ADOPTED 5-0 TO GRANT THE REQUEST FOR 4D(3) EXEMPTION THROUGH JUNE 20, 2014 FOR THE FOLLOWING POSITION:

F: Legislative Liaison (State Police)

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

**C:** Agency Procurement Officer (Agriculture)

**D:** ALPLM Director of Education (Historic Preservation Agency)

**E:** Legislative Liaison (Revenue)

**G:** Legislative Liaison (Workers' Compensation Commission)

The following 4d(3) exemption request was granted through June 20, 2014 on December 20, 2013:

#### F. Illinois State Police

Position Number	13851-21-00-700-30-01
Position Title	Executive 1
Bureau/Division	Office of the Director/Governmental Affairs
Functional Title	Legislative Liaison
Incumbent	Vacant
Supervisor	Chief, Governmental Affairs who reports to the Director
Location	Sangamon County



# The following 4d(3) exemption requests were granted on December 20, 2013:

# C. Illinois Department of Agriculture

Position Number	40070-11-01-800-00-01 <sup>A</sup>
Position Title	Senior Public Service Administrator
Bureau/Division	Executive Office
Functional Title	Agency Procurement Officer
Incumbent	Vacant
Supervisor	Director
Location	Sangamon County

# D. Illinois Historic Preservation Agency

Position Number	40070-48-57-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Abraham Lincoln Presidential Library & Museum (ALPLM)
Functional Title	ALPLM Director of Education
Incumbent	Vacant
Supervisor	ALPLM Deputy Director, who reports to the ALPLM Director,
Supervisor	who in turn reports to the Director
Location	Sangamon County

### E. Illinois Department of Revenue

Position Number	37015-25-04-000-02-01
Position Title	Public Service Administrator
Bureau/Division	Legislative Office
Functional Title	Legislative Liaison
Incumbent	Vacant
Supervisor	Manager of Legislative Office who reports to the Director
Location	Sangamon County

# G. Illinois Workers' Compensation Commission

Position Number	40070-50-37-000-20-01
Position Title	Senior Public Service Administrator
Bureau/Division	Legislative Affairs
Functional Title	Legislative Liaison
Incumbent	Vacant
Supervisor	Chairman
Location	Cook County

<sup>&</sup>lt;sup>A</sup> The exemption for this position was previously rescinded on November 19, 2010.



#### VI. CLASS SPECIFICATIONS

The following class titles were submitted for creation by the Director of the Illinois Department of Central Management Services:

Firearms Eligibility Analyst Trainee Firearms Eligibility Analyst I Firearms Eligibility Analyst II

Assistant Executive Andrew Barris stated that the Illinois State Police (ISP) requested the class study for the Firearms Eligibility Analyst Trainee, I, and II classes after Illinois became the last state to pass a concealed carry law. It was estimated that there would be over 400,000 applications submitted for approval to carry a concealed firearm and applications would be accepted online by January 5, 2014. Currently, positions within the Office Associate and Office Coordinator classes were charged with analyzing applications to carry a concealed firearm. The creation of the Firearm Eligibility Analyst classes was needed to describe a specific training progression regarding such duties as background checks and to distinguish the classes in order to adequately accommodate the anticipated application requests, and other duties such as mental health history research, Governor's appeals, and the reinstatement of firearm privileges. Moreover, an agreement regarding the new classes had been reached under collective bargaining.

Chairman FitzGerald asked whether enough time had been devoted to the creation of the new classes in light of the recent passage of the legislation and immediate implementation of the program. John Logsdon, Central Management Services-Technical Services, stated that Illinois has done more in its program than any other state and that interim classes had been previously created and utilized in order to meet the deadline until the new classes were created. Commissioner Cummings inquired if the interim classes would be grandfathered in. John Logsdon indicated they would. Commissioner Krey noted that because Illinois was the last state to pass a concealed carry law there was an opportunity to analyze what other states had done and for Illinois to create the most effective way to adequately meet the requirements of the law. For these reasons, the Staff recommended approval of the three new classes.

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER CUMMINGS, AND THE MOTION ADOPTED 5-0 TO APPROVE THE CREATION OF THE FOLLOWING CLASS TITLES TO BE EFFECTIVE ON JANUARY 1, 2014.

Firearms Eligibility Analyst Trainee Firearms Eligibility Analyst I Firearms Eligibility Analyst II

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



#### VII. MOTION TO CLOSE A PORTION OF THE MEETING

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

<b>FITZGERALD</b>	YES	ANDERSON	YES
<b>CUMMINGS</b>	YES	KREY	YES
URLACHER	YES		



#### VIII. 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 11:10 a.m.

#### **PRESENT**

Chairman Garrett P. FitzGerald; James B. Anderson, Anita M. Cummings, Susan Moylan Krey, and Casey Urlacher, Commissioners; Daniel Stralka, Executive Director; and Andrew Barris, Assistant Executive Director.

#### 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.

Agency	10/31/13	11/30/13	11/30/12
Aging	1	1	2
Agriculture	0	0	1
Central Management Services	0	0	2
Children and Family Services	0	1	5
Healthcare and Family Services	1	0	5
Historic Preservation Agency	1	0	0
Human Services	0	0	2
Natural Resources	1	1	2
Revenue	1	0	3
Transportation	0	0	1
Veterans' Affairs	0	0	1
Totals	5	3	24



#### X. INTERLOCUTORY APPEAL

#### **DA-8-14**

Employee	Ololade Sanusi	Appeal Date	11/08/13
Agency	Human Services	Decision Date	12/05/13
Type	Discharge	ALJ	Daniel Stralka
Issue(s)	Motion To Dismiss filed for no	Proposal for	Grant Motion to
	jurisdiction (employee not subject to	Decision	Dismiss subject to
	jurisdiction B of the Personnel Code)		approval of
			Commission

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER ANDERSON, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL TO GRANT THE MOTION TO DISMISS FOR NO JURISDICTION.

<b>FITZGERALD</b>	YES	<b>ANDERSON</b>	YES
<b>CUMMINGS</b>	YES	KREY	YES
URLACHER	YES		

#### XI. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEALS

#### **DA-2-14**

Employee	James E. Simmons	Appeal Date	07/29/13
Agency	Corrections	Decision Date	12/05/13
Appeal Type	Discharge	Proposal for	Charges are partially proven
ALJ	Daniel Stralka	Decision	and warrant a 60-day
			suspension plus duration of
			suspension pending discharge.

IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER URLACHER, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL THAT THE WRITTEN CHARGES FOR DISCHARGE HAVE BEEN PARTIALLY PROVEN AND WARRANT A 60-DAY SUSPENSION PLUS THE DURATION OF HIS SUSPENSION PENDING DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED DECEMBER 5, 2013.

FITZGERALD	YES	ANDERSON	YES
<b>CUMMINGS</b>	YES	KREY	YES
URLACHER	YES		



#### S-44-13

Employee	Charles E. Dehlinger	Appeal Date	05/31/13
Agency	Revenue	Decision Date	12/04/13
Appeal Type	Suspension	Proposal for	Charge is proven and the
ALJ	Andrew Barris	Decision	suspension upheld.

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER KREY, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL THAT THE WRITTEN CHARGE HAS BEEN PROVEN AND WARRANTS A 15-DAY SUSPENSION FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED DECEMBER 4, 2013.

<b>FITZGERALD</b>	YES	ANDERSON	YES
<b>CUMMINGS</b>	YES	KREY	YES
URLACHER	YES		

#### **RV-30-13**

Employee	Larry J. Beck, Jr.	Appeal Date	02/11/13
Agency	Corrections	Decision Date	11/22/13
Appeal Type	Rule Violation	Proposal for	No violation.
ALJ	Andrew Barris	Decision	

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER URLACHER, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL THAT NO VIOLATION OF THE PERSONNEL CODE OR PERSONNEL RULES WAS PROVEN BY A PREPONDERANCE OF THE EVIDENCE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED NOVEMBER 22, 2013.

<b>FITZGERALD</b>	YES	ANDERSON	YES
<b>CUMMINGS</b>	YES	KREY	YES
URLACHER	YES		

# XII. REVIEW OF CLOSED MEETING MINUTES PURSUANT TO OPEN MEETINGS ACT

Assistant Executive Director Barris reported that after review of the Closed Meeting Minutes, the need for confidentiality still exists as to all those Minutes.



IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER URLACHER, AND THE MOTION ADOPTED 5-0 THAT AFTER REVIEW OF CLOSED MEETING MINUTES PURSUANT TO THE OPEN MEETINGS ACT, THE NEED FOR CONFIDENTIALITY STILL EXISTS AS TO ALL THOSE MINUTES.

XIII. APPROVAL OF THE DESTRUCTION OF THE AUDIO VERBATIM RECORDINGS OF CLOSED SESSIONS PRIOR TO JULY 1, 2011 IN ACCORDANCE WITH THE OPEN MEETINGS ACT

IT WAS MOVED BY CHAIRMAN FITZGERALD, SECONDED BY COMMISSIONER URLACHER, AND THE MOTION ADOPTED 5-0 THAT THE DESTRUCTION OF THE AUDIO VERBATIM RECORDINGS OF CLOSED SESSIONS PRIOR TO JULY 1, 2011<sup>2</sup> IS APPROVED IN ACCORDANCE WITH THE OPEN MEETINGS ACT.

#### XIV. STAFF REPORT

Executive Director Daniel Stralka reported that:

- On December 5 the compliance audit for fiscal years 2012 and 2013 was released. There were no material findings. He did note that it included a follow-up from the Auditor General's Management Audit of Exemptions released in 2010. The follow-up referenced two recommendations from the Management Audit, one of them that the Commission should work with Central Management Services to monitor the use of principal policy exempt positions. From an inquiry with the Auditor General, he was advised that this follow-up will continue to be included in future compliance audits until the Commission adopts a more formal monitoring program. Executive Director Stralka indicated that he will be starting the process of developing one, but the limited resources of the Commission Staff would preclude any sort of extensive program. Chairman FitzGerald inquired if Central Management Services had received the same follow-up. Executive Director Stralka indicated he had asked that of the Auditor General but did not receive any conclusive response.
- The Commission entered its fiscal year 2015 appropriation request and was in agreement with the Governor's Office of Management and Budget to remain flat for the coming year.
- The 2014 mileage reimbursement was decreasing from \$0.565/mile to \$0.56/mile.

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<sup>&</sup>lt;sup>2</sup> The Commission voted on July 15, 2011 to maintain verbatim recordings for a minimum of 24 months before destruction.

# XV. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular open meeting to be held Friday, January 17, 2014 at 1:30 p.m. in the Commission's Springfield office.

### XVI. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER URLACHER, AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 11:20 A.M.

