

February 18, 2011

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
February 18, 2011

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

II. PRESENT

Chris Kolker, Chairman; Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director (by telephone); Jan Oncken, Bill Lipsmire (by telephone) and Mark Magill (by telephone), Illinois Department of Central Management Services; William Barnes, Office of the State Fire Marshal; Bridget Devlin, Illinois Department of Commerce and Economic Opportunity; Susan Gold and Rick DiDomenico, Illinois Department of Financial and Professional Regulation; Dan Hall (by telephone) and Jessica Nunes (by telephone), Illinois Department of Revenue; and Teresa Garate, Illinois Department of Public Health.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD JANUARY 21, 2011

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 4-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 21, 2011.

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

A. Report on Exempt Positions¹

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging	145	10
Agriculture.....	423	16
Arts Council.....	19	2
Capitol Development Board	46	0
Central Management Services	1,407	115
Children and Family Services.....	2,952	48
Civil Service Commission	4	0
Commerce & Economic Opportunity	425	66
Commerce Commission.....	78	0
Corrections.....	11,804	103
Criminal Justice Authority.....	64	5
Deaf and Hard of Hearing Comm.....	7	1
Developmental Disabilities Council	9	1
Emergency Management Agency	92	7
Employment Security	1,888	29
Environmental Protection Agency.....	894	16
Financial & Professional Regulation	482	41
Gaming Board.....	90	5
Guardianship and Advocacy	109	7
Healthcare and Family Services.....	2,264	25
Historic Preservation Agency	190	9
Human Rights Commission	14	2
Human Rights Department	152	8
Human Services	13,424	77
Insurance.....	248	11
Investment Board.....	2	1
Juvenile Justice	1,256	20
Labor.....	77	7
Labor Relations Board Educational	11	2
Labor Relations Board State	16	2
Law Enforcement Training & Standards Bd.....	17	2
Medical District Commission	2	0
Military Affairs.....	123	3
Natural Resources	1,257	26
Pollution Control Board.....	21	1
Prisoner Review Board	19	0
Property Tax Appeal Board	22	1
Public Health	1,089	42
Racing Board	2	0
Revenue	2,026	56
State Fire Marshal.....	141	12
State Police	1,284	4
State Police Merit Board.....	6	1
State Retirement Systems	87	2
Transportation.....	3,956	0
Veterans' Affairs	1,221	7
Workers' Compensation Commission	176	8
TOTALS	50,041	801

¹ Source: Illinois Department of Central Management Services Report on Exempt Positions.

B. Governing Rule – Section 1.142 Jurisdiction B Exemptions

- a) The Civil Service Commission shall exercise its judgment when determining whether a position qualifies for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code. The Commission will consider any or all of the following factors inherent in the position and any other factors deemed relevant to the request for exemption:
 - 1) The amount and scope of principal policy making authority;
 - 2) The amount and scope of principal policy administering authority;
 - 3) The amount of independent authority to represent the agency, board or commission to individuals, legislators, organizations or other agencies relative to programmatic responsibilities;
 - 4) The capability to bind the agency, board or commission to a course of action;
 - 5) The nature of the program for which the position has principal policy responsibility;
 - 6) The placement of the position on the organizational chart of the agency, board or commission;
 - 7) The mission, size and geographical scope of the organizational entity or program within the agency, board or commission to which the position is allocated or detailed.
- b) The Commission may, upon its own action after 30 days notice to the Director of Central Management Services or upon the recommendation of the Director of the Department of Central Management Services, rescind the exemption of any position that no longer meets the requirements for exemption set forth in subsection (a). However, rescission of an exemption shall be approved after the Commission has determined that an adequate level of managerial control exists in exempt status that will insure responsive and accountable administrative control of the programs of the agency, board or commission.
- c) For all positions currently exempt by action of the Commission, the Director of Central Management Services shall inform the Commission promptly in writing of all changes in essential functions, reporting structure, working title, work location, position title, position number or specialized knowledge, skills, abilities, licensure or certification.
- d) Prior to granting an exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the Commission will notify the incumbent of the position, if any, of its proposed action. The incumbent may appear at the Commission meeting at which action is to be taken and present objections to the exemption request.

(Source: Amended at 34 Ill. Reg. 3485, effective March 3, 2010)

* * *

C. Requests for 4d(3) Exemption and Proposed Rescission of 4d(3) Exemption

Executive Director Daniel Stralka reported:

- As to Items C1 and C2, these requests are for the Audit Program Managers for Income Tax (C1) and Sales Tax (C2) in the Department of Revenue. These positions both report to the Manager of the Audit Bureau – a 4d(3) exempt position – who reports to the Director. The audit program is a major division within the agency, with the Income Tax section completing over 100,000 audits in the last two fiscal years establishing \$1,200,000,000 in liabilities and the Sales Tax section completing over 15,000 audits establishing \$450,000,000 in liabilities. While the Audit Bureau Manager has principal policy development and implementation authority, both these subordinate positions have principal policy responsibilities in the day-to-day administration of their respective audit programs as well as establishing their annual audit programs. Given the overall scope and responsibility of these programs, it appears the program is sufficient to support these additional two exemptions.

There are incumbents in both these positions who have been provided notice in accordance with our Rules. Neither incumbent has indicated to the Commission that they have any objection to these requests. For these reasons, Staff recommended approval of these requests. Dan Hall, Audit Bureau Program Administrator for the Illinois Department of Revenue, concurred with this presentation.

Chairman Kolker requested additional information about the Annual Audit Program. Dan Hall responded that each of these positions has significant independent authority in determining the focus of the agency's audit program which changes from year to year. This includes sole discretion as to specific types of revenue the audits target and types of entities that are audited. These positions also make audit revenue projections relied upon by the Agency Director and the Administration in crafting statewide spending plans. Dan Hall also confirmed that he had spoken with the incumbents who had told him that they had no objection to this requested change in position status. Commissioner Peterson asked whether the incumbents would be staying in these positions to which Dan Hall answered affirmatively.

- As to Item D, this request is for the Lottery Superintendent position which reports to the Director of Revenue. By its enabling legislation (20 ILCS 1605/5) this position is appointed by the Governor with the advice and consent of the Senate. Section 4c(7) of the Personnel Code exempts from all jurisdictions of the Personnel Code positions appointed by the Governor with the advice and consent of the Senate. Therefore, this is not a position subject to the Commission's jurisdiction so Staff recommended this request be denied. Jessica Nunes, Assistant Human Resources Director of Strategic Processes, Administrative and Regulatory Shared Services Center, indicated she had confirmed with the Comptroller that this was not a State Officer position under its payroll and concluded it must be an Agency non-Code position.

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

- C1: Manager, Audit Program for Income Tax Division (DOR)**
- C2: Manager, Audit Program for Sales & Miscellaneous Tax Division (DOR)**
- D: Lottery Superintendent (DOR)**

The following 4d(3) exemption requests were granted on February 18, 2011:

C1. Illinois Department of Revenue

Position Number	40070-25-41-140-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Audit Bureau
Functional Title	Manager, Audit Program for Income Tax Division
Incumbent	Charles K. Campbell
Supervisor	Manager of the Audit Bureau, who reports to the Director
Location	Cook County

C2. Illinois Department of Revenue

Position Number	40070-25-41-110-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Audit Bureau
Functional Title	Manager, Audit Program for Sales & Miscellaneous Tax Division
Incumbent	Roger W. Koss
Supervisor	Manager of the Audit Bureau, who reports to the Director
Location	Sangamon County

The following 4d(3) exemption request was denied on February 18, 2011:

D. Illinois Department of Revenue

Position Number	40070-25-90-000-01-01
Position Title	Senior Public Service Administrator
Bureau/Division	Lottery
Functional Title	Lottery Superintendent
Incumbent	Vacant
Supervisor	Director
Location	Cook County

Commissioner Raymond W. Ewell arrived at the meeting.

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As to the proposed rescissions, Executive Director Stralka noted that the reason these were included was due to extended vacancy in excess of two years. On January 18, 2011, he provided notice to the Director of Central Management Services in accordance with Commission Rules followed by letters to all affected agency directors notifying them of which positions may be placed on this month's agenda for rescission and why. These notices included 21 positions. Since that time, he had many telephone calls and exchanged e-mails and correspondence with agency representatives about these proposed rescissions. Many issues were resolved during this initial period with many of these positions so that when it came time to finalize the agenda only 13 positions were included for the Commission to determine if their 4d(3) exemption should be rescinded. All these positions are vacant.

Executive Director Stralka also noted that Commission rules provide that rescissions shall be approved only after the Commission has determined that an adequate level of managerial control exists in exempt status which will insure responsive and accountable administrative control of agency programs. It was the Commission staff's position that such control exists for all these proposed rescissions.

- As to Items E2, E8, and E9, the agencies indicated they had no objection to the proposed rescissions.
- As to Items E4, E5, and E13, the agencies never responded to the notices of proposed rescissions. On February 8, a reminder e-mail was sent to agency personnel.

It was the Staff recommendation to approve these six proposed rescissions.

- As to Item E10, there are internal agency issues with regard to this position that it would not be prudent to proceed with rescission at this time. For these reasons, it was the Staff recommendation to deny these proposed rescissions.
- As to Item E11, it was discovered that it has not been vacant in excess of two years.

As to Items E1, E3, E6, E7, and E12, the agencies all provided a variety of reasons as to why the positions remained unfilled but all indicated they have been proceeding with efforts to fill them and wish to retain the exemption. Staff had no objection to these responses and noted that the administrative Epar process agencies must use to fill positions and the current fiscal climate were often factors that hindered agency efforts to fill vacant positions in a timely manner. Staff had no objection to denying these proposed rescissions with the caveat that they will resurface on the May agenda if not filled by then.

- William Barnes, General Counsel for the Office of the State Fire Marshal, explained to the Commission that an employee was temporarily assigned to Item E12. The Agency wishes to retain the exemption on this position and has commenced the process to fill it by the end of the year so that the new appointee will be trained by the temporarily assigned employee.

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- Susan Gold, Chief of Staff for the Illinois Department of Financial and Professional Regulation, explained how E3 has been vacant for over two years due to organizational issues between the Residential Finance and Banking Divisions. Upon resolution, the Agency has a plan to fill the position with an employee who will be temporarily assigned to it in the interim, and subsequently abolish this temporarily assigned employee's position.
- As to Item E6, no agency representative appeared. Executive Director Stralka recited for the Commissioners the history of correspondence between Commission Staff and the Agency.
- As to Item E7, Teresa Garate, Assistant Director for the Illinois Department of Public Health, explained the regional configuration for the Agency's seven Regional Health Officers. She noted the extraordinary length of time this position has been vacant but also indicated that the Agency has initiated the appointment process, identified a candidate, and received verbal assurance from the Governor's Office that the appointment will be approved. Commissioner Peterson inquired as to the qualifications for a Regional Health Officer. Teresa Garate responded, citing the need for public health experience in dealing with local public health entities and administrative hearing skills as well.

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO APPROVE AND DENY THE PROPOSED RESCISSIONS FROM 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:

The following 4d(3) exemptions were rescinded on February 18, 2011:

Item	Agency	Position Number	Functional Title
E2	CEO	40070-42-80-000-00-01	Deputy Director, Homeland Security Marketplace
E4	DHS	40070-10-12-200-00-29	Manager, Latino Worker Safety and Immigration Office
E5	DHS	40070-10-76-600-00-01	Deputy Director, Clinical Operations
E8	DPH	40070-20-52-000-00-01	Division Chief, Food-Drugs-Dairies
E9	DOR	40070-25-07-150-00-01	Deputy General Counsel, Income Tax
E13	WCC	40070-50-37-000-00-02	Chief of Staff / Assistant Secretary

The following 4d(3) exemption rescissions were denied on February 18, 2011:

Item	Agency	Position Number	Functional Title
E1	CEO	40070-42-00-094-00-01	Manager, ITO (European, Middle East, Africa, and Asia)
E3	FPR	40070-13-10-400-00-01	Manager, Residential Finance
E10	DOR	40070-25-42-320-00-01	Shared Services Center-Assistant HR Director, Functional Processes
E11	DOR	40070-25-42-410-00-01	Shared Services Center-Assistant CFO-Functional Processes
E12	SFM	40070-50-50-200-00-01	Director, Boiler & Pressure Vessel Safety

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

The following 4d(3) exemption rescission was denied on February 18, 2011:

Item	Agency	Position Number	Functional Title
E7	DPH	40070-20-06-205-00-51	Regional Health Officer-Marion

The following 4d(3) exemption rescission was continued on February 18, 2011:

Item	Agency	Position Number	Functional Title
E6	DJJ	40070-27-00-100-00-01	Deputy Director, Operations

V. CLASS SPECIFICATIONS

The following class titles were submitted for revision by the Director of Central Management Services:

- Revenue Auditor Trainee**
- Revenue Auditor 1**
- Revenue Auditor 2**
- Revenue Auditor 3**

Staff Analysis: Assistant Executive Director Andrew Barris had questions regarding the necessity for the revision to the above classes, whether any applicable collective bargaining representatives agreed with the change, the status of current employees who might not meet the proposed Education and Experience requirements, and the period of time in which the employees must serve in the positions within the classes before certification. Bill Lipsmire, Central Management Technical Services, explained that the requirements in Education and Experience were too broad and resulted in candidates unable to handle the duties of the class. For instance, the current class specification only required a “bachelor’s degree” and “21 hours of coursework.” Bill Lipsmire explained that this language needed to be more

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specific in stating that the bachelor's degree needed to be in "accounting, business administration, or finance" and the course work in accounting must be "progressive." Otherwise, a candidate with a bachelor's degree wholly unrelated to accounting or finance who repeatedly took the same type of accounting class for 21 hours through online universities might technically qualify for the desirable requirements of the class but in reality would be unprepared for the knowledge requirements of the position. Bill Lipsmire explained that AFSCME agreed to the changes and stated that current employees who might not qualify for the revised classes would be given the opportunity to do so through the Upward Mobility Program as set forth in the AFSCME Memorandum of Understanding regarding the changes. Jessica Nunes, Assistant Human Resources Director of Strategic Processes, was present by telephone on behalf of the agency and specifically stated that the trainee class required 12 months of service prior to certification and the proposed revisions did not change that requirement.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 5-0 TO APPROVE THE REVISION OF THE FOLLOWING CLASS TITLES TO BE EFFECTIVE MARCH 1, 2011.

**Revenue Auditor Trainee
Revenue Auditor 1
Revenue Auditor 2
Revenue Auditor 3**

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

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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 11:55 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 (by telephone).

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code; however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	12/31/10	1/31/11	1/31/10
Aging	1	1	1
Agriculture	0	0	1
Central Management Services	1	0	0
Children and Family Services	2	4	5
Commerce and Economic Opportunity	1	0	2
Employment Security	3	6	4
Healthcare and Family Services	4	2	3
Historic Preservation Agency	0	1	1
Human Services	1	6	0
Natural Resources	3	15	6
Property Tax Appeal Board	0	1	0
State Fire Marshal	1	1	0
Transportation	1	11	21
Totals	18	48	44

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

DA-44-10

Employee	Eric W. Jackson	Appeal Date	03/15/10
Agency	DES	Decision Date	02/04/11
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Violation of Code of Ethics and Personnel Rule 302.700	Proposal for Decision	Charges are proven and warrant discharge.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER PETERSON, AND BY ROLL CALL VOTE OF 3-2 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION THAT THE CHARGES HAVE BEEN PROVEN AND WARRANT DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED FEBRUARY 4, 2011.

KOLKER	NO	EWELL	NO
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

RV-26-10

Employee	Gregory D. Douglas	Appeal Date	12/18/09
Agency	CMS	Decision Date	01/05/11
Type	Rule Violation	ALJ	Daniel Stralka
Allegation(s)	Violation of Section 304.10 of the Personnel Rules	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 THAT NO VIOLATION HAS BEEN PROVEN AND THE APPEAL IS DENIED.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

RV-21-11

Employee	Troy Hurt	Appeal Date	09/16/10
Agency	DVA	Decision Date	01/25/11
Type	Rule Violation	ALJ	Andrew Barris
Allegation(s)	Violation of Section 302.600 of the Personnel Rules	Proposal for Decision	No violation.

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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 PROPOSAL THAT NO VIOLATION HAS BEEN PROVEN AND THE APPEAL IS DENIED.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

X. STAFF REPORT

- Executive Director Stralka noted that Statements of Economic Interest will be mailed soon and requested the original forms be submitted to him for review in accordance with his statutory duties as Ethics Officer. After his review, the Statements will be filed with the Secretary of State as a group.
- Executive Director Stralka also noted that the fiscal year 2012 ISL forms were completed and filed with the Legislature on February 17.

XI. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on Friday, March 18, 2011 at 11:00 a.m. in the Commission's Chicago office.

XII. MOTION TO ADJOURN

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 12:00 P.M.