

March 16, 2012

REGULAR MEETING MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
March 16, 2012

I. CALL TO ORDER THE REGULAR OPEN MEETING AT 11:00 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Anita M. Cummings, Ares G. Dalianis¹, Garrett P. FitzGerald, and Susan Moylan Krey, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director (by telephone); Mark Magill (by telephone) and Bill Lipsmire (by telephone), Illinois Department of Central Management Services; and Barbara Piwowarski and Jeanette Okulinski, Illinois Department of Employment Security.

III. APPROVAL OF MINUTES OF REGULAR OPEN MEETING HELD FEBRUARY 17, 2012

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER FITZGERALD, AND THE MOTION ADOPTED 3-0 TO APPROVE THE MINUTES OF THE REGULAR OPEN MEETING HELD ON FEBRUARY 17, 2012.

¹ Commissioner Dalianis arrived at 11:30 a.m.

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

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

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging.....	141.....	11
Agriculture	356.....	16
Arts Council	18.....	2
Capitol Development Board.....	42.....	0
Central Management Services.....	1,618.....	114
Children and Family Services.....	2,892.....	49
Civil Service Commission.....	4.....	0
Commerce & Economic Opportunity.....	394.....	67
Commerce Commission	77.....	0
Corrections	11,401.....	105
Criminal Justice Authority.....	63.....	5
Deaf and Hard of Hearing Comm.....	7.....	1
Developmental Disabilities Council.....	8.....	1
Emergency Management Agency.....	91.....	6
Employment Security	1,775.....	25
Environmental Protection Agency.....	857.....	16
Financial & Professional Regulation.....	472.....	42
Gaming Board	123.....	5
Guardianship and Advocacy	103.....	7
Healthcare and Family Services	2,135.....	26
Historic Preservation Agency.....	178.....	10
Human Rights Commission.....	14.....	2
Human Rights Department.....	143.....	8
Human Services.....	12,914.....	76
Illinois Sentencing Policy Advisory Council.....	2.....	2
Illinois Torture Inquiry Relief Commission	2.....	1
Insurance	254.....	13
Investment Board	2.....	1
Juvenile Justice.....	1,229.....	20
Labor	88.....	9
Labor Relations Board Educational.....	11.....	2
Labor Relations Board State.....	17.....	2
Law Enforcement Training & Standards Bd.	18.....	2
Lottery	149.....	6
Medical District Commission.....	2.....	0
Military Affairs.....	123.....	3
Natural Resources.....	1,203.....	28
Pollution Control Board	22.....	1
Prisoner Review Board.....	19.....	0
Property Tax Appeal Board.....	24.....	1
Public Health	1,079.....	41
Racing Board.....	2.....	1
Revenue.....	1,739.....	52
State Fire Marshal	142.....	12
State Police.....	1,221.....	5
State Police Merit Board	5.....	1
State Retirement Systems	89.....	2
Transportation	3,357.....	0
Veterans' Affairs	1,296.....	9
Workers' Compensation Commission.....	130.....	8
TOTALS.....	48,051.....	816

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)

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C. Requests for 4d(3) Exemption

Executive Director Daniel Stralka reported:

- As to Item C, the agency withdrew this request.
- As to Item D, this request is for the Project Manager for the Misclassified Worker Program at the Illinois Department of Employment Security, a position that reports to an interim supervisory position that reports to the Director. This supervisory position has yet to be established since this request is the first step in a reorganization. The program area of this request is such that it would clearly support a principal policy exemption request. The misclassified worker program is designed to ensure employers properly classify their workers as employees as opposed to independent contractors or otherwise which excuses them from paying unemployment insurance. Illinois is following the lead of New York on this which discovered over \$704 million in unreported wages when it launched a similar program. This position is charged with developing and running this program for Illinois. However, Staff was unable to recommend approval at this time due to the lack of an established supervisory position.

Barbara Piwowarski, Deputy Director of Administration for the Illinois Department of Employment Security, clarified for the Commission the status of the supervisory position. This is an established position, but its position description is in need of clarification. Chairman Kolker inquired whether the agency is undergoing a full reorganization. Deputy Director Piwowarski responded affirmatively, noting that the organizational chart on record with Central Management Services was inaccurate. A new one has been submitted but not yet approved so clarification of the superior position was unable to be accomplished prior to the meeting. Chairman Kolker explained how Commission rules require consideration of the organizational structure. Historically, the Commission has not taken action on a principal policy exemption request without an established organizational structure in place. That allows the Commission to review the supervisory structure when making its determination as well as creating a proper record for audit purposes and insuring against duplication. Chairman Kolker suggested that the agency proceed to fill the position in the interim since it appears more than likely the request would ultimately be approved and then come back to the Commission with any other requests resulting from the reorganization which can be presented all at once. That will allow for more informed deliberation over the agency's plan. Deputy Director Piwowarski expressed concern that the failure to approve the request today would hinder its ability to obtain epar approval for any appointment. Chairman Kolker noted that the assurance that the position qualifies for exemption once this organizational issue is cleared up should be sufficient, especially if the position is as mission critical as presented. Chairman Kolker expressed appreciation for the appearance of the agency representatives at the meeting.

- As to Item E, this request is for the Health Information Technology Exchange Program Director in the Department of Insurance, a position that reports to the Director. This position first came before the Commission two years ago after the

Governor issued Executive Order 10-01 creating the Office of Health Information Technology. At that time, the Commission granted the agency's exemption request but only for a term of two years. As that is about to expire, the agency resubmitted its request to the Commission.

One of the goals of this Office is to develop an Exchange which will allow health care providers and other stakeholders to share a variety of health information electronically. Subsequently, legislation was passed last year to create the Illinois Health Information Exchange Authority. This position represents the Department of Insurance on that board. In addition, this position is charged with developing a statewide health insurance exchange. While there are many similarities between the two exchanges, the big difference is that the former is concerned with the transmission of medical records while the latter deals with health insurance information. There is also no enabling legislation for the latter at this point.

While it seems clear that this position will be heavily involved in both principal policy development and implementation on these significant program areas, it is unclear what long-term role it will have once they are up and running. For that reason, it was the Staff recommendation to grant another two-year exemption while these exchanges are being created. The agency had no objection to this limitation.

Commissioner Krey inquired why the delay in implementing this initiative. As there was no agency representative available, Executive Director Stralka simply noted the length of time in general initiatives such as this took, pointing out enabling legislation was passed just last year. Commissioner FitzGerald inquired as to the duration of the term exemption and whether it could be shorter. Chairman Kolker and Executive Director Stralka responded that the Commission has approved shorter term exemptions in the past and that two years was the maximum duration for a term exemption.

- As to Item F, this request is for the Chief of the Office of Labor Relations and Special Projects for the Illinois State Police, a position that reports to the Legal Office Director who reports to the agency Director. This position serves as chief negotiator and labor relations administrator for the agency, a function that has historically supported principal policy exemption. For that reason, Staff recommended approval of this request

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

- D: Project Manager for IDES Misclassified Worker Program (Department of Employment Security)**
- E: Health Information Technology Exchange Program Director (Department of Insurance)**
- F: Chief, Labor Relations and Special Projects (Illinois State Police)**

The following 4d(3) exemption request was continued on March 16, 2012:

D. Illinois Department of Employment Security

Position Number	40070-44-70-100-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Revenue
Functional Title	Project Manager for IDES Misclassified Worker Program
Incumbent	Vacant
Supervisor	Manager of Revenue Division who reports to the Director
Location	Cook County

The following 4d(3) exemption request was granted on March 16, 2012 for a period of two years:

E. Illinois Department of Insurance

Position Number	40070-14-40-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Health Information Technology Exchange
Functional Title	Health Information Technology Exchange Program Director
Incumbent	Colleen Burns
Supervisor	Director
Location	Cook County

The following 4d(3) exemption request was granted on March 16, 2012:

F. Illinois State Police

Position Number	40070-21-00-240-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Office of the Director
Functional Title	Chief, Labor Relations and Special Projects
Incumbent	Vacant
Supervisor	Chief, Legal Office who reports to the Director
Location	Sangamon County

V. CLASS SPECIFICATIONS

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

- Conservation Police Lieutenant

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Staff Analysis: Assistant Executive Director Barris spoke with Ben Fokum, John Logsdon, and Bill Lipsmire at the Illinois Department of Central Management Services (CMS) about the following questions regarding the creation of the Conservation Police Lieutenant class: If it was a Illinois Labor Relations Board (ILRB) ruling in 2006 upon which the Conservation Sergeant and Conservation Lieutenant classes were included in collective bargaining, why did it take until 2010 for the Conservation Lieutenant class to be created but the Conservation Sergeant class was created in 2006? It was explained that the decision by the ILRB regarding the Lieutenant class occurred on February 1, 2007 and not on February 22, 2006 as represented in the classification analysis. CMS represented that it would submit a corrected copy of the class specification with the correct date. It was also explained that because the employees were included in the appropriate pay scale performing duties assigned to the working titles, neither the agency nor the union pressed for the creation of the class because the employees in the class were performing the work and getting paid accordingly. As explained in the class analysis, these two classes existed prior to broadbanding the classes into the PSA class in 1994 with their working titles and duties previously established.

Assistant Executive Director Barris also asked about the practical differences between the Sergeant and Lieutenant classes. The descriptions indicate both classes act as supervisors without the authority to impose “serious discipline,” while both classes have the authority to impose “oral and written reprimands.” In addition, if the distinction between the Sergeant and Lieutenant classes is that the Lieutenant class involves “an additional NEW work role...created to encompass functioning as a supervisor of subordinate program specialists,” would this still comport with the ILRB ruling? Chairman Kolker asked if the Lieutenants were going to stay in the same title under the collective bargaining agreement. It was explained that the ILRB considered this “new work role” in its decision. It was explained that the union agreed to the creation of the class and that the Lieutenant class would stay under the same title as before. Bill Lipsmire also explained that the difference between the classes was that the Sergeants supervised lower ranking Conservation Officers while the Lieutenants supervised the Sergeants and also supervised statewide program specialists. For these reasons, Staff recommended approval of the new class.

IT WAS MOVED BY COMMISSIONER FITZGERALD, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 4-0 TO APPROVE THE CREATION OF THE FOLLOWING CLASS TITLE TO BE EFFECTIVE APRIL 1, 2012:

- **Conservation Police Lieutenant**

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

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VI. MOTION TO CLOSE A PORTION OF THE MEETING

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER FITZGERALD, AND BY ROLL CALL VOTE THE MOTION ADOPTED 4-0 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.

KOLKER	YES	CUMMINGS	YES
DALIANIS		FITZGERALD	YES
KREY	YES		

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VII. 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 11:38 a.m.

PRESENT

Chris Kolker, Chairman; Anita M. Cummings, Ares G. Dalianis, Garrett P. FitzGerald, and Susan Moylan Krey, 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	1/31/12	2/29/12	2/28/11
Aging	0	0	1
Central Management Services	1	1	0
Children and Family Services	2	1	4
Corrections	0	0	1
Employment Security	11	2	3
Healthcare and Family Services	2	2	1
Historic Preservation Agency	1	1	1
Human Services	1	1	2
Natural Resources	6	15	9
State Fire Marshal	1	1	1
Transportation	3	5	10
Totals	28	29	33

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IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

DA-45-11

Employee	Sheila R. Smith	Appeal Date	04/12/11
Agency	Corrections	Decision Date	03/02/12
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Tardiness and falsifying sign-in sheet	Proposal for Decision	Appeal upheld; employee to be reinstated.

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION DATED MARCH 2, 2012 THAT THE WRITTEN CHARGES FOR DISCHARGE HAVE NOT BEEN PROVEN SO THE DISCHARGE IS SET ASIDE IN WHOLE AND SHEILA R. SMITH IS TO BE REINSTATED TO HER POSITION OF OFFICE ASSOCIATE WITH THE ILLINOIS DEPARTMENT OF CORRECTIONS.

KOLKER	YES	CUMMINGS	YES
DALIANIS	YES	FITZGERALD	YES
KREY	YES		

DA-9-12

Employee	Lisa L. Barjas	Appeal Date	08/18/11
Agency	Employment Security	Decision Date	03/01/12
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Unauthorized absences	Proposal for Decision	60-day suspension plus duration of her suspension pending discharge

IT WAS MOVED BY CHAIRMAN KOLKER, 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 FOR DECISION THAT THE CHARGES HAVE BEEN PROVEN AND WARRANT A 60-DAY SUSPENSION PLUS THE DURATION OF HER SUSPENSION PENDING DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED MARCH 1, 2012.

KOLKER	YES	CUMMINGS	YES
DALIANIS	YES	FITZGERALD	YES
KREY	YES		

DA-22-12

Employee	Floyd Crenshaw	Appeal Date	09/22/11
Agency	Corrections	Decision Date	03/02/12
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Socialized with parolee and failed to notify the agency	Proposal for Decision	Charges are proven and warrant 90-day suspension plus duration of suspension pending discharge.

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION THAT THE CHARGES HAVE BEEN PROVEN AND WARRANT A 90-DAY SUSPENSION PLUS THE DURATION OF HIS SUSPENSION PENDING DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED MARCH 2, 2012.

KOLKER	YES	CUMMINGS	YES
DALIANIS	YES	FITZGERALD	YES
KREY	YES		

X. APPEAL ON REMAND

DA-40-08 ON REMAND FROM APPELLATE COURT (3-10-0156)

Employee	John Gnutek	Appeal Date	4/06/08
Agency	DOR	Decision Date	3/06/09
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Removing/releasing confidential documents without authorization; attempting to retrieve e-mails of another employee; conducting unauthorized audits	Recommended Decision	Proven charges warrant discharge.
		Final Decision	90-day suspension in lieu of discharge.
Remanded	90-day suspension decision is reversed and vacated; remanded for the Commission to first decide whether the proven violations warrant discharge	Proposal for Decision on Remand	Dismissed subject to approval of Commission; Joint Motion to Dismiss was filed 3/01/12.

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XI. APPEAL DISMISSED WITHOUT DECISION ON THE MERITS

DA-43-12

Employee	Barbara Manning	Appeal Date	2/01/12
Agency	Illinois Housing Development Authority	Decision Date	2/16/12
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Not available	Proposal for Decision	Dismissed subject to approval of Commission; withdrawn.

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER FITZGERALD, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSALS FOR DECISION TO DISMISS THE GNUTEK AND MANNING APPEALS FOR THE REASONS SET FORTH IN THE PROPOSALS FOR DECISION.

KOLKER	YES	CUMMINGS	YES
DALIANIS	YES	FITZGERALD	YES
KREY	YES		

XII. STAFF REPORT

Executive Director Daniel Stralka reported:

- The Commissioner's completed Statements of Economic Interest forms were to be returned to him so he could review them as the Ethics Officer in accordance with the State Officials and Employees Ethics Act. After review, all the forms will be submitted to the Secretary of State's office.
- The Commissioner's 2012 Ethics Test materials were distributed to the Commissioners to be completed and the certificates returned to him.
- Commissioners Krey and FitzGerald have yet to be called for confirmation of their appointments by the full Senate.

Assistant Executive Director Andrew Barris spoke with the Attorney General's office about problems encountered with the Open Meetings Act training program accessed through the Attorney General's website. It was explained that some problems might be attributed to the internet browser, i.e., Firefox as opposed to Internet Explorer. Barris offered to forward to the Commissioners an email with troubleshooting tips if any problems were encountered during the training.

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XIII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular open meeting to be held Friday, April 20, 2012 at 11:00 a.m. in the Commission's Chicago office.

XIV. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER FITZGERALD, AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 11:42 A.M.