REGULAR MEETING MINUTES ILLINOIS CIVIL SERVICE COMMISSION September 19, 2014

I. <u>CALL TO ORDER THE REGULAR OPEN MEETING AT 11:00 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 (by telephone), and Casey Urlacher, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director (by telephone); Elizabeth Whitehorn, Roneta Taylor (by telephone), Mike Quinlan (by telephone), and Chris Nickols (by telephone), Illinois Department of Central Management Services; Emily Monk, Illinois Department of Commerce and Economic Opportunity; Alison Howlett and Victor Golden, Illinois Department of Lottery; and Beth Duesterhaus (by telephone), Administrative and Regulatory Shared Services Center.

MOTION TO ALLOW PARTICIPATION AT MEETING BY AUDIO CONFERENCE

Executive Director Daniel Stralka advised that he had been notified in advance that Commissioner Krey was prevented from physically attending the September 19, 2014 meeting at the Commissioner's Chicago office due to employment purposes and wished to attend by audio conference.

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER URLACHER, AND THE MOTION ADOPTED 4-0 TO ALLOW COMMISSIONER KREY TO ATTEND THE MEETING BY AUDIO CONFERENCE.

III. <u>APPROVAL OF MINUTES OF REGULAR OPEN MEETING HELD AUGUST 15,</u> 2014

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 5-0 TO APPROVE THE MINUTES OF THE REGULAR OPEN MEETING HELD AUGUST 15, 2014.

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.

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

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

<u>Agency</u>	Total Employees	Number of Exempt Positions
Aging	142	18
Agriculture	339	20
Arts Council		
Capitol Development Board		
Central Management Services		
Children and Family Services		
Civil Service Commission		
Commerce & Economic Opportunity		
Commerce Commission	70	
Corrections		
Criminal Justice Authority	,	
Deaf and Hard of Hearing Comm		
Developmental Disabilities Council		
Emergency Management Agency		
Employment Security		
Environmental Protection Agency	808	17
Financial & Professional Regulation	439	49
Gaming Board		
Guardianship and Advocacy		
Healthcare and Family Services		
Historic Preservation Agency	163	16
Human Rights Commission		
Human Rights Department	143	9
Human Services	11,956	76
Illinois Torture Inquiry Relief Commission		
Independent Tax Tribunal		
Insurance	236	16
Investment Board		
Juvenile Justice	1.013	24
Labor		
Labor Relations Board Educational		
Labor Relations Board State		
Law Enforcement Training & Standards Bd		
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	126	11
TOTALS	44,374	868

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 the following:

The first three requests are from the Department of Commerce and Economic Opportunity (DCEO) and were continued from last month so the agency could clarify the position descriptions of both the requested positions and their superior Deputy Directors to better describe and differentiate their respective principal policy responsibilities. These were received by Commission Staff on September 2, 2014 and forwarded to the Commissioners prior to this meeting.

• As to Item C1, this request is from DCEO and is for an Assistant Deputy Director of Marketing, a position that reports to the Deputy Director who reports to the Director. The clarifications for this request appear to highlight how the requested position has full implementation responsibility for the Agency-wide strategic marketing plan along with some additional verbiage addressing special project marketing initiatives and economic trend analysis. The Deputy Director clarification essentially limits its Agency-wide strategic marketing plan responsibility to formulation only while it previously included both formulation and implementation.

Section 4d(3) allows principal policy exemptions for positions that have principal policy determination responsibilities, as well as positions that have the same level of responsibility for the way in which these policies are carries out, i.e. implementation. Most often both these responsibilities lie with the lead position in a given program, though the Commission has in the past at times awarded principal policy exemptions in cases like this where an agency splits the formulation and implementation responsibilities. That is essentially what the agency is seeking to do with this request in its Marketing program. If the Commission is satisfied that the nature of this program warrants such a split and, furthermore, that the requested Assistant Deputy Director position will in actuality retain independent authority over the way in which the strategic marketing plan is carried out – meaning his or her decisions will not be subject to reversal by the superior Deputy Director – approval of the exemption request can be justified.

Emily Monk, Chief Operating Officer-Department of Commerce and Economic Opportunity, concurred with this summary. Commissioner Anderson inquired why the agency sought to split the responsibilities. Emily Monk replied that as the agency has ramped up its marketing efforts, it has become clear that this is a large job. The agency wants one position to focus on the strategic planning aspect of the marketing program with the other to implement the program.

Commissioner Krey indicated her concern that the Assistant Deputy Director will not have the necessary independent authority to support an exemption. Emily Monk replied that it is anticipated that the two positions will work closely together, but the intention is for the Assistant Deputy Director to carry out the marketing plan. The division of labor is for the Deputy Director to address strategic planning and the Assistant Deputy Director to implement the plan.

Commissioner Cummings asked who is presently performing these responsibilities. Emily Monk indicated the Deputy Director is with assistance from the Director's Office for implementation.

- As to Item C2, the agency asked to withdraw this request. Staff had no objection to this request.
- As to Item C5, this request is from Department of Commerce and Economic Opportunity and is for an Illinois Works Manager, a position that reports to the Deputy Director of Employment and Training who reports to the Director. The clarifications for this request and the superior Deputy Director simply made it clear that the Illinois Works Manager has full principal policy responsibility development and implementation for State funded job training programs while the superior Deputy Director retains these responsibilities for all other job training programs. It is noteworthy that the Deputy Director will also serve in an advisory capacity to the Illinois Works program which may negatively impact the principal requirement of Section 4d(3).

While the agency makes a valid distinction by the funding source for its job training programs, just like Item C1 above Staff has a concern whether the Illinois Works Manager will in actuality have the requisite amount of authority independent of the Deputy Director to satisfy the principal requirement. In addition, Staff had a concern since there is already an exempt Deputy Director of Employment and Training as well as an exempt Assistant Deputy Director. That would place three principal policy exempt positions in this program area which appears to only have 20 total positions allocated to it, 13 of which also appear to be vacant. Finally, if the Illinois Works Manager position is approved, it is difficult to discern what programmatic responsibility would remain to justify a continued exemption for the Assistant Deputy Director. Unlike Item C1, the agency does not appear to be splitting the principal policy development and implementation responsibilities between the Deputy Director and Assistant Deputy Director.

Emily Monk, Chief Operating Officer-Department of Commerce and Economic Opportunity, corrected the staffing numbers. She indicated that there are 40-50 current employees in this program area, most of who work on the Federal programs. It is the agency's intent to put more structure around the new State programs that have popped up in the last few years. She added that while the Deputy Director will serve as an advisor to the Illinois Works, that is because there are so many similarities in the program implementation. Executive Director Stralka added that he noted the advisory capacity language simply because it was new to the position description and not because it should act as a disqualifier.

Commissioner Cummings asked Executive Director Stralka if the Commission approves exemption requests for positions that manage programs. Stralka indicated it does, drawing a distinction between program managers and high level advisory positions.

Commissioner Cummings asked if the fundamental difference between the programs the Assistant Deputy Director and Deputy Director manages is funding. Emily Monk indicated that was correct. Commissioner Cummings followed up by asking who is managing the Federal program now. Emily Monk indicated it was the Deputy Director. Commissioner Cummings then asked if those are the only two funding sources. Emily Monk indicated that was correct.

• As to Item D, this is a request from the Lottery for a Chief Transition Officer, a position that reports to the Director. This position will manage the transition from the current private manager, Northstar, to the new one after the contract is rebid. This position will essentially have veto power over the private manager decisions regarding operating decisions during this transition period. It will be a temporary position and eventually abolished. Lottery indicated they would need a 36 month exemption. As a rule of thumb, Staff prefers to keep term exemptions to 24 months. If the Lottery needs more time, they can just come back before the Commission and ask for it. In any event, for these reasons, Staff recommended approval of this request but for a limited term not to exceed 36 months.

Alison Howlett, Deputy Chief of Staff-Illinois Department of Lottery, indicated this was an accurate depiction for the position. Chairman FitzGerald inquired about the length of the term the agency was seeking. Executive Director Stralka indicated 36 months. Commissioner Cummings inquired if the agency would need 36 months. Alison Howlett indicated this would be ideal. Commissioner Anderson asked if there was a mechanism in place for the agency to seek an extension after 24 months. Executive Director Stralka explained that the agency would simply need to resubmit the request before the term expired, noting that the Commission has never denied an extension request.

Prior to Commission action, Commissioner Urlacher made a general statement regarding the requests from the Department of Commerce and Economic Opportunity. He noted how in 2003 the agency had 500 employees and only 20 exempt positions. Approving these requests would put the agency at over 20% of their workforce exempt. Commissioner Urlacher added that he anticipates the agency would be back before the Commission seeking additional exemptions, taking the percentage even higher. He concluded by simply noting other agencies have been able to make do with fewer exempt employees.

Commissioner Anderson responded that the Commission's benchmark is the language in Section 4d(3) which he then cited. He was unsure that the total number of employees is relevant to the analysis.

Commissioner Krey stated that she took issue with the use of the word "advisory" in the position descriptions.

Commissioner Anderson responded that the Commission should want decision makers to be advised so that is not necessarily a bad thing.

Commissioner Krey replied that there are already exempt positions at the agency to perform these functions.

IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY CHAIRMAN FITZGERALD, AND THE MOTION MADE TO GRANT THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION. BY A VOTE OF 2-2 (COMMISSIONER CUMMINGS ABSTAINED) THE MOTION FAILED:

C1: Assistant Deputy Director (Commerce & Economic Opportunity)

IT WAS MOVED BY COMMISSIONER URLACHER, SECONDED BY COMMISSIONER ANDERSON, AND THE MOTION ADOPTED 5-0, TO ACCEPT THE WITHDRAWAL OF EXEMPTION REQUEST FOR THE FOLLOWING POSITION:

C2: Deputy Chief of Staff (Commerce & Economic Opportunity)

IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY CHAIRMAN FITZGERALD, AND THE MOTION MADE TO GRANT THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION. BY A VOTE OF 2-2 (COMMISSIONER CUMMINGS ABSTAINED) THE MOTION FAILED:

C5: Illinois Works Manager (Commerce & Economic Opportunity)

IT WAS MOVED BY COMMISSIONER URLACHER, SECONDED BY COMMISSIONER CUMMINGS, AND THE MOTION ADOPTED 5-0, TO GRANT THE EXEMPTION REQUEST FOR THE FOLLOWING POSITION FOR A PERIOD OF 24 MONTHS:

D: Chief Transition Officer (Lottery)

Commissioner Cummings inquired of Elizabeth Whitehorn the status of the Chairman's June request for information related to 4th level grievance requests. Commissioner Urlacher joined in this request. Elizabeth Whitehorn replied that the requested information was placed in the mail yesterday to the Commission.

Chairman FitzGerald then inquired of the Commissioners if the issue with Items C1 and C5 was there are just too many exempt positions at Department of Commerce and Economic Opportunity. Commissioner Urlacher replied that for him, that was an accurate statement. He repeated how the agency would be over the 20% mark and repeated the comparison from 2003. He stated how the Commission cannot just keep approving and approving agency requests, especially since he believes that this will not be the last of Department of Commerce and Economic Opportunity requests.

Elizabeth Whitehorn inquired of Commissioner Cummings the reason for her abstaining from the votes on Items C1 and C5. Commissioner Cummings declined to respond to Elizabeth Whitehorn's inquiry.

The following 4d(3) exemption requests were denied on September 19, 2014:

C1. Illinois Dept. of Commerce & Economic Opportunity

Position Number	40070-42-00-010-05-01
Position Title	Senior Public Service Administrator
Bureau/Division	Marketing
Functional Title	Assistant Deputy Director
Incumbent	Vacant
Supervisor	Deputy Director who reports to the Director
Location	Cook County

C5. Illinois Dept. of Commerce & Economic Opportunity

Position Number	40070-42-40-300-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Employment and Training
Functional Title	Illinois Works Manager
Incumbent	Vacant
Supervisor	Deputy Director who reports to the Director
Location	Sangamon County

The following 4d(3) exemption request was withdrawn on September 19, 2014:

C2. Illinois Dept. of Commerce & Economic Opportunity

Position Number	37015-42-00-000-03-01
Position Title	Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Deputy Chief of Staff
Incumbent	Vacant
Supervisor	Director
Location	Cook County

The following 4d(3) exemption request was granted on September 19, 2014 for a period of 24 months:

D. Illinois Department of Lottery

Position Number	40070-45-00-200-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Chief Transition Officer
Incumbent	Vacant
Supervisor	Director
Location	Cook County

V. CLASS SPECIFICATIONS

A. Governing Rule – Section 1.45 Classification Plan

The Commission will review the class specifications requiring Commission approval under the Classification Plan and will approve those that meet the requirements of the Personnel Code and Personnel Rules and conform to the following accepted principles of position classification:

- a) The specifications are descriptive of the work being done or that will be done;
- b) Identifiable differentials are set forth among classes that are sufficiently significant to permit the assignment of individual positions to the appropriate class;
- c) Reasonable career promotional opportunities are provided;
- d) The specifications provide a reasonable and valid basis for selection screening by merit examinations;
- e) All requirements of the positions are consistent with classes similar in difficulty, complexity and nature of work.

B. None submitted.

IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER CUMMINGS, 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 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.

FITZGERALD	YES	ANDERSON	YES
CUMMINGS	YES	KREY	YES
URLACHER	YES		

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 11:30 a.m.

PRESENT

Chairman Garrett P. FitzGerald; James B. Anderson, Anita M. Cummings, and Casey Urlacher, 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.

Agency	7/31/14	8/31/14	8/31/13
Aging	0	0	2
Agriculture	0	0	2
Arts Council	0	0	1
Central Management Services	3	0	2
Children and Family Services	3	2	12
Corrections	1	1	0
Criminal Justice Authority	1	0	0
Healthcare and Family Services	8	4	19
Historic Preservation Agency	5	5	11
Human Rights Department	1	1	0
Human Services	2	3	1
Insurance	1	0	0
Juvenile Justice	1	1	0
Natural Resources	28	26	0
Property Tax Appeal Board	0	0	3
Public Health	0	0	2
Revenue	3	2	5
State Police Merit Board	0	0	1
State Retirement Systems	1	1	0
Veterans' Affairs	0	0	5
Totals	58	46	66

IX. <u>INTERLOCUTORY APPEAL</u>

AA-46-14

Employee	Michael A. Wright	Appeal Date	6/09/14
Agency	Central Management Services	Decision Date	8/29/14
Type	Allocation	ALJ	Andrew Barris
Issue(s)	Motion To Dismiss filed for	Proposal for	Motion to Dismiss
	no jurisdiction (appeal was	Decision	granted subject to
	filed prematurely)		approval of Commission;
			no jurisdiction.

IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER URLACHER, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE PROPOSAL FOR DECISION OF THE ADMINISTRATIVE LAW JUDGE TO GRANT THE MOTION TO DISMISS THE APPEAL FOR NO JURISDICTION BECAUSE IT WAS FILED PREMATURELY. THE PETITIONER DID NOT MAKE A REQUEST FOR RECONSIDERATION TO THE DIRECTOR OF CENTRAL MANAGEMENT SERVICES, NOR DID THE DIRECTOR OF CENTRAL MANAGEMENT SERVICES RENDER A WRITTEN DECISION ON RECONSIDERATION.

FITZGERALD YES ANDERSON YES CUMMINGS YES KREY URLACHER YES

X. <u>APPEALS DISMISSED WITH NO DECISIONS ON THE MERITS</u>

DA-37-14

Employee	Clinton Koontz	Appeal Date	4/07/14
Agency	Corrections	Decision Date	8/29/14
Appeal Type	Discharge	Proposal for Decision	Dismissed; settled.
ALJ	Andrew Barris		

S-5-15

Employee	Nakeya Lockridge	Appeal Date	7/21/14
Agency	Human Services	Decision Date	8/08/14
Appeal Type	Suspension	Proposal for Decision	Dismissed; withdrawn.
ALJ	Daniel Stralka		

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER URLACHER, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE PROPOSALS FOR DECISION OF THE ADMINISTRATIVE LAW JUDGES TO DISMISS THE APPEALS.

FITZGERALD YES ANDERSON YES
CUMMINGS YES KREY
URLACHER YES

XI. FY 2014 ANNUAL REPORT

IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER URLACHER, AND THE MOTION ADOPTED 4-0 TO APPROVE THE FISCAL YEAR 2014 ANNUAL REPORT.

XII. MEETING SCHEDULE FOR CALENDAR YEAR 2015

IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER URLACHER AND THE MOTION ADOPTED 4-0 TO APPROVE THE FOLLOWING MEETING SCHEDULE FOR CALENDAR YEAR 2015 WHILE CONTINUING TO DISCUSS THE POSSIBILITY OF SCHEDULING ONE MEETING AT A DOWNSTATE LOCATION.

January 16, 2015	Springfield	July 17, 2015	Chicago
February 20, 2015	Chicago	August 21, 2015	Springfield
March 20, 2015	Chicago	September 18, 2015	Chicago
April 17, 2015	Chicago	October 16, 2015	Chicago
May 15, 2015	Springfield	November 20, 2015	Chicago
June 19, 2015	Chicago	December 18, 2015	Chicago

Unless otherwise scheduled, the meetings will convene at the Chicago office of the Commission at 11:00 a.m. and at the Springfield office at 1:30 p.m.

XIII. STAFF REPORT

Executive Director Stralka briefly summarized his September 17, 2014 Office of Executive Inspector General Final Report Summary he had provided to the Commissioners regarding the Staff Assistant positions at the Illinois Department of Transportation. He pointed out how the Commission's interest in this matter lay not with the primary subject matter of the Final Report, but with the Agency's determinations that so many of their employees should be classified as Technical in accordance with the general exemption language of Section 4c(12) of the Personnel Code. A discussion of this issue ensued with all Commissioners participating. It was the consensus of the Commissioners that Executive Director Stralka should prepare a letter to the three affected entities – the Governor's Office, Central Management Services, and Illinois Department of Transportation – noting the Commission's interest in steps being considered going forward to ensure employees are being properly classified and reminding them of the Commission's statutory responsibilities in this area.

He also reported that the SECA (State and University Employees Combined Appeal) charitable contribution campaign started September 15 and will run through November 7.

XIV. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular open meeting to be held Friday, October 17, 2014 at 11:00 a.m. in the Commission's Chicago office.

XV. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER URLACHER, SECONDED BY COMMISSIONER ANDERSON, AND THE MOTION ADOPTED 4-0 TO ADJOURN THE MEETING AT 12:03 P.M.