

1 AN ACT concerning administrative hearings.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Sections 1-5, 1-15, 1-30, 10-5, 10-15,
6 10-20, 10-25, 10-45, 10-50, 10-60, and 10-65 and adding
7 Section 1-13 and Article 12 as follows:

8 (5 ILCS 100/1-5) (from Ch. 127, par. 1001-5)

9 Sec. 1-5. Applicability.

10 (a) This Act applies to every agency as defined in this
11 Act. Beginning January 1, 1978, in case of conflict between
12 the provisions of this Act and the Act creating or conferring
13 power on an agency, this Act shall control. ~~If, however, an~~
14 ~~agency-(or-its-predecessor-in-the-case-of-an-agency-that--has~~
15 ~~been--consolidated-or-reorganized)-has-existing-procedures-on~~
16 ~~July-17-1977,-specifically-for-contested-cases-or--licensing,~~
17 ~~these-existing-provisions-control,-except-that-this-exception~~
18 ~~respecting--contested--cases--and-licensing-does-not-apply-if~~
19 ~~the-Act-creating-or-conferring-power-on-the-agency-adopts--by~~
20 ~~express--reference-the-provisions-of-this-Act.~~ Where the Act
21 creating or conferring power on an agency establishes
22 administrative procedures not covered by this Act, those
23 procedures shall remain in effect.

24 (b) The provisions of this Act do not apply to (i)
25 preliminary hearings, investigations, or practices where no
26 final determinations affecting State funding are made by the
27 State Board of Education, (ii) legal opinions issued under
28 Section 2-3.7 of the School Code, (iii) as to State colleges
29 and universities, their disciplinary and grievance
30 proceedings, academic irregularity and capricious grading
31 proceedings, and admission standards and procedures, and (iv)

1 the class specifications for positions and individual
2 position descriptions prepared and maintained under the
3 Personnel Code. Those class specifications shall, however,
4 be made reasonably available to the public for inspection and
5 copying. The provisions of this Act do not apply to hearings
6 under Section 20 of the Uniform Disposition of Unclaimed
7 Property Act.

8 (c) Section 5-35 of this Act relating to procedures for
9 rulemaking does not apply to the following:

10 (1) Rules adopted by the Pollution Control Board
11 that, in accordance with Section 7.2 of the Environmental
12 Protection Act, are identical in substance to federal
13 regulations or amendments to those regulations
14 implementing the following: Sections 3001, 3002, 3003,
15 3004, 3005, and 9003 of the Solid Waste Disposal Act;
16 Section 105 of the Comprehensive Environmental Response,
17 Compensation, and Liability Act of 1980; Sections 307(b),
18 307(c), 307(d), 402(b)(8), and 402(b)(9) of the Federal
19 Water Pollution Control Act; and Sections 1412(b),
20 1414(c), 1417(a), 1421, and 1445(a) of the Safe Drinking
21 Water Act.

22 (2) Rules adopted by the Pollution Control Board
23 that establish or amend standards for the emission of
24 hydrocarbons and carbon monoxide from gasoline powered
25 motor vehicles subject to inspection under Section
26 13A-105 of the Vehicle Emissions Inspection Law and rules
27 adopted under Section 13B-20 of the Vehicle Emissions
28 Inspection Law of 1995.

29 (3) Procedural rules adopted by the Pollution
30 Control Board governing requests for exceptions under
31 Section 14.2 of the Environmental Protection Act.

32 (4) The Pollution Control Board's grant, pursuant
33 to an adjudicatory determination, of an adjusted standard
34 for persons who can justify an adjustment consistent with

1 subsection (a) of Section 27 of the Environmental
2 Protection Act.

3 (5) Rules adopted by the Pollution Control Board
4 that are identical in substance to the regulations
5 adopted by the Office of the State Fire Marshal under
6 clause (ii) of paragraph (b) of subsection (3) of Section
7 2 of the Gasoline Storage Act.

8 (d) Pay rates established under Section 8a of the
9 Personnel Code shall be amended or repealed pursuant to the
10 process set forth in Section 5-50 within 30 days after it
11 becomes necessary to do so due to a conflict between the
12 rates and the terms of a collective bargaining agreement
13 covering the compensation of an employee subject to that
14 Code.

15 (e) Section 10-45 of this Act shall not apply to any
16 hearing, proceeding, or investigation conducted under Section
17 13-515 of the Public Utilities Act.

18 (f) Article 10 of this Act does not apply to any
19 hearing, proceeding, or investigation conducted by the State
20 Council for the State of Illinois created under Section
21 3-3-11.05 of the Unified Code of Corrections or by the
22 Interstate Commission ~~Commission~~ for Adult Offender
23 Supervision created under the Interstate Compact for Adult
24 Offender Supervision.

25 (Source: P.A. 92-571, eff. 6-26-02; revised 7-25-02.)

26 (5 ILCS 100/1-13 new)

27 Sec. 1-13. "Administrative hearing" means any hearing
28 required to comply with the provisions of this Act concerning
29 a contested case.

30 (5 ILCS 100/1-15) (from Ch. 127, par. 1001-15)

31 Sec. 1-15. "Administrative law judge" means the
32 presiding officer or officers at the initial administrative

1 hearing before each agency and each continuation of that
2 administrative hearing. The term also includes but is not
3 limited to hearing examiners, hearing officers, referees, and
4 arbitrators.

5 (Source: P.A. 87-823.)

6 (5 ILCS 100/1-30) (from Ch. 127, par. 1001-30)

7 Sec. 1-30. "Contested case" means an adjudicatory
8 proceeding (not including ratemaking, rulemaking, or
9 quasi-legislative, informational, or similar proceedings) in
10 which the individual legal rights, duties, or privileges of a
11 party are required by law to be determined by an agency only
12 after an opportunity for an administrative a hearing.

13 (Source: P.A. 87-823.)

14 (5 ILCS 100/10-5) (from Ch. 127, par. 1010-5)

15 Sec. 10-5. Rules required for hearings. All agencies
16 shall adopt rules establishing procedures for administrative
17 ~~eontested-ease~~ hearings.

18 (Source: P.A. 87-823.)

19 (5 ILCS 100/10-15) (from Ch. 127, par. 1010-15)

20 Sec. 10-15. Standard of proof. Unless otherwise
21 provided by law or stated in the agency's rules, the standard
22 of proof in any administrative ~~eontested--ease~~ hearing
23 conducted under this Act by an agency shall be the
24 preponderance of the evidence.

25 (Source: P.A. 87-823.)

26 (5 ILCS 100/10-20) (from Ch. 127, par. 1010-20)

27 Sec. 10-20. Qualifications of administrative law judges.
28 All Agencies shall adopt rules concerning the minimum
29 qualifications of administrative law judges for
30 administrative eontested-ease hearings not subject to Article

1 12 of this Act. The agency head or an attorney licensed to
 2 practice law in Illinois may act as an administrative law
 3 judge or panel for an agency without adopting any rules under
 4 this Section. The These rules may be adopted using the
 5 procedures in either Section 5-15 or 5-35.

6 (Source: P.A. 87-823.)

7 (5 ILCS 100/10-25) (from Ch. 127, par. 1010-25)

8 Sec. 10-25. Notice of contested cases; administrative
 9 notice; hearing.

10 (a) In a contested case, all parties shall be afforded
 11 an opportunity for an administrative a hearing after
 12 reasonable notice. The notice shall be served personally or
 13 by certified or registered mail or as otherwise provided by
 14 law upon the parties or their agents appointed to receive
 15 service of process and shall include the following:

16 (1) A statement of the time, place, and nature of
 17 the administrative hearing.

18 (2) A statement of the legal authority and
 19 jurisdiction under which the administrative hearing is to
 20 be held.

21 (3) A reference to the particular Sections of the
 22 substantive and procedural statutes and rules involved.

23 (4) Except where a more detailed statement is
 24 otherwise provided for by law, a short and plain
 25 statement of the matters asserted, the consequences of a
 26 failure to respond, and the official file or other
 27 reference number.

28 (5) The names and mailing addresses of the
 29 administrative law judge, all parties, and all other
 30 persons to whom the agency gives notice of the
 31 administrative hearing unless otherwise confidential by
 32 law.

33 (b) An opportunity shall be afforded all parties to be

1 represented by legal counsel and to respond and present
2 evidence and argument.

3 (c) Unless precluded by law, disposition may be made of
4 any contested case by stipulation, agreed settlement, consent
5 order, or default.

6 (Source: P.A. 87-823.)

7 (5 ILCS 100/10-45) (from Ch. 127, par. 1010-45)

8 Sec. 10-45. Proposal for decision. Except where
9 otherwise expressly provided by law, when in a contested case
10 a majority of the officials of the agency who are to render
11 the final decision has not heard the case or read the
12 record, the decision, if adverse to a party to the proceeding
13 other than the agency, shall not be made until a proposal for
14 decision is served upon the parties and an opportunity is
15 afforded to each party adversely affected to file exceptions
16 and to present a brief and, if the agency so permits, oral
17 argument to the agency officials who are to render the
18 decision. The proposal for decision shall contain a
19 statement of the reasons therefor and of each issue of fact
20 or law necessary to the proposed decision and shall be
21 prepared by the persons who conducted the administrative
22 hearing or one who has read the record.

23 (Source: P.A. 87-823.)

24 (5 ILCS 100/10-50) (from Ch. 127, par. 1010-50)

25 Sec. 10-50. Decisions and orders.

26 (a) A final decision or order adverse to a party (other
27 than the agency) in a contested case shall be in writing or
28 stated on in the record. A final decision shall include
29 findings of fact and conclusions of law, separately stated.
30 Findings of fact, if set forth in statutory language, shall
31 be accompanied by a concise and explicit statement of the
32 underlying facts supporting the findings. If, in accordance

1 with agency rules, a party submitted proposed findings of
2 fact, the decision shall include a ruling upon each proposed
3 finding. Parties or their agents appointed to receive
4 service of process shall be notified either personally or by
5 registered or certified mail of any decision or order. Upon
6 request a copy of the decision or order shall be delivered or
7 mailed forthwith to each party and to each his attorney of
8 record.

9 (b) All agency orders shall specify whether they are
10 final and subject to the Administrative Review Law.

11 (c) A decision by any agency in a contested case under
12 this Act shall be void unless the proceedings are conducted
13 in compliance with the provisions of this Act relating to
14 contested cases, except to the extent those provisions are
15 waived under Section 10-70 and--except--to--the--extent--the
16 agency--has--adopted--its--own--rules--for--contested--cases--as
17 authorized--in--Section--1-5.

18 (Source: P.A. 92-16, eff. 6-28-01.)

19 (5 ILCS 100/10-60) (from Ch. 127, par. 1010-60)

20 Sec. 10-60. Ex parte communications.

21 (a) Except in the disposition of matters that agencies
22 are authorized by law to entertain or dispose of on an ex
23 parte basis, agency heads, agency employees, and
24 administrative law judges shall not, after notice of hearing
25 in a contested case or licensing to which the procedures of a
26 contested case apply under this Act, communicate, directly or
27 indirectly, in connection with any issue of fact, with any
28 person or party, or in connection with any other issue with
29 any party or the representative of any party, without except
30 upon notice and opportunity for all parties to participate.

31 (b) However, an agency member may communicate with other
32 members of the agency, and an agency member or administrative
33 law judge may have the aid and advice of one or more personal

1 assistants.

2 (c) An ex parte communication received by any agency
3 head, agency employee, or administrative law judge shall be
4 made a part of the record of the pending matter, including
5 all written communications, all written responses to the
6 communications, and a memorandum stating the substance of all
7 oral communications and all responses made and the identity
8 of each person from whom the ex parte communication was
9 received.

10 (d) Communications regarding matters of procedure and
11 practice, such as the format of pleadings, number of copies
12 required, manner of service, scheduling, and status of
13 proceedings, are not considered ex parte communications under
14 this Section.

15 (Source: P.A. 87-823.)

16 (5 ILCS 100/10-65) (from Ch. 127, par. 1010-65)

17 Sec. 10-65. Licenses.

18 (a) When any licensing is required by law to be preceded
19 by notice and an opportunity for an administrative a hearing,
20 the provisions of this Act concerning contested cases shall
21 apply.

22 (b) When a licensee has made timely and sufficient
23 application for the renewal of a license or a new license
24 with reference to any activity of a continuing nature, the
25 existing license shall continue in full force and effect
26 until the final agency decision on the application has been
27 made unless a later date is fixed by order of a reviewing
28 court.

29 (c) An application for the renewal of a license or a new
30 license shall include the applicant's social security number.
31 Each agency shall require the licensee to certify on the
32 application form, under penalty of perjury, that he or she is
33 not more than 30 days delinquent in complying with a child

1 support order. Every application shall state that failure to
2 so certify shall result in disciplinary action, and that
3 making a false statement may subject the licensee to contempt
4 of court. The agency shall notify each applicant or licensee
5 who acknowledges a delinquency or who, contrary to his or her
6 certification, is found to be delinquent or who after
7 receiving notice, fails to comply with a subpoena or warrant
8 relating to a paternity or a child support proceeding, that
9 the agency intends to take disciplinary action. Accordingly,
10 the agency shall provide written notice of the facts or
11 conduct upon which the agency will rely to support its
12 proposed action and the applicant or licensee shall be given
13 an opportunity for an administrative a hearing in accordance
14 with the provisions of the Act concerning contested cases.
15 Any delinquency in complying with a child support order can
16 be remedied by arranging for payment of past due and current
17 support. Any failure to comply with a subpoena or warrant
18 relating to a paternity or child support proceeding can be
19 remedied by complying with the subpoena or warrant. Upon a
20 final finding of delinquency or failure to comply with a
21 subpoena or warrant, the agency shall suspend, revoke, or
22 refuse to issue or renew the license. In cases in which the
23 Department of Public Aid has previously determined that an
24 applicant or a licensee is more than 30 days delinquent in
25 the payment of child support and has subsequently certified
26 the delinquency to the licensing agency, and in cases in
27 which a court has previously determined that an applicant or
28 licensee has been in violation of the Non-Support Punishment
29 Act for more than 60 days, the licensing agency shall refuse
30 to issue or renew or shall revoke or suspend that person's
31 license based solely upon the certification of delinquency
32 made by the Department of Public Aid or the certification of
33 violation made by the court. Further process, hearings, or
34 redetermination of the delinquency or violation by the

1 licensing agency shall not be required. The licensing
 2 agency may issue or renew a license if the licensee has
 3 arranged for payment of past and current child support
 4 obligations in a manner satisfactory to the Department of
 5 Public Aid or the court. The licensing agency may impose
 6 conditions, restrictions, or disciplinary action upon that
 7 license.

8 (d) Except as provided in subsection (c), no agency
 9 shall revoke, suspend, annul, withdraw, amend materially, or
 10 refuse to renew any valid license without first giving
 11 written notice to the licensee of the facts or conduct upon
 12 which the agency will rely to support its proposed action and
 13 an opportunity for an administrative a hearing in accordance
 14 with the provisions of this Act concerning contested cases.
 15 At the administrative hearing, the licensee shall have the
 16 right to show compliance with all lawful requirements for the
 17 retention, continuation, or renewal of the license. If,
 18 however, the agency finds that the public interest, safety,
 19 or welfare imperatively requires emergency action, and if the
 20 agency incorporates a finding to that effect in its order,
 21 summary suspension of a license may be ordered pending
 22 proceedings for revocation or other action. Those
 23 proceedings shall be promptly instituted and determined.

24 (e) Any application for renewal of a license that
 25 contains required and relevant information, data, material,
 26 or circumstances that were not contained in an application
 27 for the existing license shall be subject to the provisions
 28 of subsection (a).

29 (Source: P.A. 90-18, eff. 7-1-99; 91-613, eff. 10-1-99.)

30 (5 ILCS 100/Art. 12 heading new)

31 ARTICLE 12. OFFICE OF ADMINISTRATIVE HEARINGS

32 (5 ILCS 100/12-5 new)

1 Sec. 12-5. Applicability. This Article applies to all
2 agencies under the jurisdiction of the Governor other than
3 the following:

4 (a) Illinois Labor Relations Board and the State Panel
5 and Local Panel created under the Illinois Public Labor
6 Relations Act;

7 (b) Illinois Educational Labor Relations Board;

8 (c) Illinois Commerce Commission;

9 (d) Illinois Industrial Commission;

10 (e) Civil Service Commission;

11 (f) Pollution Control Board;

12 (g) Illinois State Police Merit Board;

13 (h) Property Tax Appeal Board; and

14 (i) Human Rights Commission.

15 (5 ILCS 100/12-10 new)

16 Sec. 12-10. Office of Administrative Hearings.

17 (a) The Office of Administrative Hearings (Office) is
18 established. The Office is an independent State agency in
19 the executive branch and is responsible for conducting
20 administrative hearings in accordance with the legislative
21 intent expressed by this Act.

22 (b) The Office is under the direction of a Chief
23 Administrative Law Judge, appointed by the Governor, by and
24 with the advice and consent of the Senate. The Chief
25 Administrative Law Judge, as a condition of appointment, must
26 have been admitted to practice law in the State of Illinois
27 for at least 10 years, must have substantial knowledge and
28 experience suitable to the duties of the Office, and may be
29 removed only for good cause following notice and an
30 opportunity for an adjudicative hearing.

31 (c) The Chief Administrative Law Judge must maintain his
32 or her principal office in Springfield and may maintain any
33 other offices that may be necessary. The Chief

1 Administrative Law Judge may purchase or lease any equipment
2 and supplies that may be necessary to carry out his or her
3 duties and must maintain records and files of the work of the
4 Office.

5 (5 ILCS 100/12-15 new)

6 Sec. 12-15. Term of office and salary.

7 (a) The Chief Administrative Law Judge shall serve for a
8 term of 6 years, provided that he or she shall hold office
9 until a successor is appointed.

10 (b) The Chief Administrative Law Judge shall receive an
11 annual salary of \$95,000 or the amount established by the
12 Compensation Review Board, whichever is greater.

13 (5 ILCS 100/12-20 new)

14 Sec. 12-20. Oath. Each prospective Chief Administrative
15 Law Judge, before taking office, must take and subscribe to
16 the oath or affirmation prescribed by Section 3 of Article
17 XIII of the Illinois Constitution, an executed copy of which
18 must be filed with the Secretary of State.

19 (5 ILCS 100/12-25 new)

20 Sec. 12-25. Powers and Duties of the Chief
21 Administrative Law Judge. The Chief Administrative Law Judge
22 has the following powers and duties:

23 (a) The Chief Administrative Law Judge may select any
24 administrative law judges that are necessary to carry out the
25 purposes of this Article. The Chief Administrative Law Judge
26 may establish different levels of administrative law judge
27 positions. The Chief Administrative Law Judge may employ and
28 direct other staff, including administrative, technical,
29 clerical, and other specialized or technical personnel that
30 may be necessary to carry out the purposes of this Article.

31 (1) Except as otherwise provided in paragraph (2) of

1 this subsection, each administrative law judge must have
2 been admitted to practice as an attorney in this State
3 for at least 5 years and must have a demonstrated
4 knowledge of and experience in administrative law and
5 procedure that is suitable to the duties of the Office.
6 An administrative law judge must be a full-time or
7 part-time employee of the Office, except that the Chief
8 Administrative Law Judge may contract for the services of
9 an attorney to serve as an administrative law judge for a
10 specific case, when necessary, because of a lack of
11 available employees with the expertise required to handle
12 a specialized contested case.

13 (2) The Chief Administrative Law Judge may employ
14 persons who are not admitted to practice as an attorney
15 to act as administrative law judges if they are
16 transferred to the Office under subsection (c) of Section
17 12-40 of this Article. The Chief Administrative Law Judge
18 may also employ or contract with persons not admitted to
19 practice law if those persons have the requisite
20 knowledge of administrative law and procedure and the
21 specialized subject-matter expertise to act as
22 administrative law judges in highly technical cases.

23 (b) Employees of the Office are not subject to the
24 Personnel Code. The Chief Administrative Law Judge must
25 establish hiring procedures based upon merit and fitness and
26 may discipline and terminate employees based only upon good
27 cause. The Chief Administrative Law Judge must fix salaries
28 of Office employees and adopt personnel rules establishing a
29 general salary schedule according to a classification of
30 employees, subject to merit increases, that applies to all
31 employees. The Chief Administrative Law Judge must adopt a
32 code of conduct and rules concerning the hiring, discipline,
33 and termination of employees.

34 (c) The Chief Administrative Law Judge must assign an

1 administrative law judge for any proceeding that is required
2 by this Article to be conducted by the Office and for any
3 proceeding for which the Office has agreed to furnish an
4 administrative law judge as provided in subsection (d). Any
5 administrative law judge so assigned does not become an
6 employee of the agency during the assignment and is not
7 subject to the direction or the supervision of the agency to
8 whose proceeding the administrative law judge has been
9 assigned.

10 (d) The Office may enter into an interagency agreement
11 with any agency to furnish administrative law judges to
12 conduct administrative hearings not otherwise required to be
13 conducted by the Office. The Office may also enter into an
14 agreement with a unit of local government or school district
15 to furnish administrative law judges to conduct
16 administrative hearings.

17 (e) In assigning administrative law judges, the Chief
18 Administrative Law Judge must, when possible, use personnel
19 having experience in the field or subject matter of the
20 hearing and assign administrative law judges primarily to the
21 hearings of particular agencies on a long-term basis. The
22 Chief Administrative Law Judge may act as an administrative
23 law judge in a particular case.

24 (f) The Office may adopt rules as necessary to carry out
25 its powers and duties under this Act. The rules must
26 include, but are not limited to, the procedures for
27 requesting the assignment of administrative law judges. No
28 agency, however, may select any individual administrative law
29 judge for any proceeding or reject any individual
30 administrative law judge, except in accordance with the
31 provisions of this Article regarding disqualifications.

32 (g) The Office must develop and institute a program of
33 continuing education and training for administrative law
34 judges and may permit administrative law judges and hearing

1 examiners employed by other agencies to participate in its
2 program. The Office may develop and institute other
3 educational programs in the area of administrative law and
4 procedure for the benefit of State employees and those who
5 participate in administrative hearings.

6 (h) The Office must:

7 (1) annually collect information on administrative
8 law and procedure in Illinois and must study
9 administrative law and procedure for the purpose of
10 improving the fairness, efficiency, and uniformity of
11 administrative adjudicatory proceedings in Illinois;

12 (2) monitor the quality and cost of State
13 administrative hearings; and

14 (3) annually report its findings and
15 recommendations to the Governor and to the General
16 Assembly no later than March 15 of each year.

17 (5 ILCS 100/12-30 new)

18 Sec. 12-30. Proceedings. Beginning on January 1, 2005,
19 an administrative law judge of the Office shall preside over
20 any administrative hearing of any agency subject to this
21 Article, except that an administrative hearing in a contested
22 case commenced before January 1, 2005 and pending before an
23 administrative law judge not transferred to the Office of
24 Administrative Hearings by operation of Section 12-40 of this
25 Article shall not be heard by an administrative law judge of
26 the Office without the agreement of the parties.

27 (5 ILCS 100/12-35 new)

28 Sec. 12-35. Administrative Hearing Procedures.

29 (a) Time and place of hearing. The Office must consult
30 the agency and determine the place and the time of
31 commencement of the administrative hearing.

32 (b) Powers of administrative law judge. The

1 administrative law judge presides at the administrative
2 hearing and may:

3 (1) administer oaths and affirmations;

4 (2) rule on offers of proof and receive relevant
5 evidence;

6 (3) regulate the schedule and the course of the
7 hearing;

8 (4) dispose of procedural requests or similar
9 matters;

10 (5) sign and issue subpoenas in the name of the
11 agency requiring attendance and giving of testimony by
12 witnesses and the production of books, papers, and other
13 documentary evidence;

14 (6) exercise any other powers relating to the
15 conduct of the administrative hearing that are lawfully
16 delegated to him or her by the agency or by the
17 examining, advisory, or disciplinary board. Whenever,
18 after an agency head or an examining, advisory, or
19 disciplinary board has commenced hearing a case with an
20 administrative law judge presiding, a quorum no longer
21 exists, the administrative law judge who is presiding must
22 complete the hearing as if sitting alone and must render
23 a proposed decision in accordance with subsection (e) of
24 this Section; and

25 (7) perform other necessary and appropriate acts in
26 the performance of his or her duties.

27 (c) Disqualifications.

28 (1) An administrative law judge of the Office must
29 voluntarily disqualify himself or herself and withdraw
30 from any case for bias, prejudice, interest, or any other
31 cause for which, under the laws of this State, a State
32 court judge is disqualified from hearing a particular
33 case. An administrative law judge should perform the
34 duties of the Office impartially and diligently.

1 (2) Any party may petition for the disqualification
2 of any administrative law judge by filing an affidavit
3 stating with particularity the grounds upon which it is
4 claimed that a fair and impartial hearing cannot be
5 accorded. The affidavit must be filed before the taking
6 of evidence or, if evidence has already been taken,
7 promptly upon discovering facts establishing grounds for
8 disqualification.

9 (3) The administrative law judge whose
10 disqualification is requested must determine whether to
11 grant the petition, stating facts and reasons for the
12 determination.

13 (4) If an administrative law judge becomes
14 unavailable as a result of recusal or any other reasons,
15 the Chief Administrative Law Judge must assign another
16 administrative law judge to preside at the administrative
17 hearing.

18 (d) Ex parte communications. Except in disposition of
19 matters that are authorized by law to be disposed of on an ex
20 parte basis, no administrative law judge of the Office may,
21 after notice of an administrative hearing in a contested
22 case, communicate, directly or indirectly, in connection with
23 any issue of fact, with any person or party, or in connection
24 with any other issue with any party or his or her
25 representative, without notice and opportunity for all
26 parties to participate. An administrative law judge,
27 however, may communicate with other employees of the Office.
28 No member of the Office may communicate regarding pending
29 matters to any member of an agency or of an examining,
30 advisory, or disciplinary board if the agency or board is
31 hearing the case with the administrative law judge. An
32 administrative law judge may have the aid and advice of one
33 or more assistants.

34 (e) Proposed decisions. When a majority of the members

1 of an agency or of an examining, advisory, or disciplinary
2 board has not heard a case with the administrative law judge,
3 any proposed decision prepared by an administrative law judge
4 of the Office is subject to this subsection (e) and Section
5 10-45 of this Act.

6 (1) When an administrative law judge hears a case
7 alone, he or she must prepare a proposed decision in a
8 form that may be adopted as the decision in the case.
9 The administrative law judge must submit the proposed
10 decision to the agency or, in the case of proceedings
11 that an examining, advisory, or disciplinary board is
12 authorized by an Act to hear and make a recommended
13 decision, to the examining, advisory, or disciplinary
14 board.

15 (2) When an administrative law judge hears a case
16 with an agency head or with an examining, advisory, or
17 disciplinary board, the administrative law judge must be
18 present during the consideration of the case and must, if
19 requested by the agency or by the board, prepare a
20 proposed decision and submit it to the agency or board.

21 (3) In reviewing a proposed decision submitted by
22 an administrative law judge of the Office, an agency head
23 or an examining, advisory, or disciplinary board is not
24 bound by the proposed decision and may adopt all, some,
25 or none of the proposed decision as its recommended
26 decision. If the agency head or examining, advisory, or
27 disciplinary board does not adopt the proposed decision
28 in its entirety, it must either (i) recommend a decision
29 in the case based upon the record, including transcript,
30 or (ii) remand the case to the same administrative law
31 judge to take additional evidence.

32 (4) If a case has been remanded to an
33 administrative law judge to take additional evidence or
34 to include more detailed findings of fact or conclusions

1 of law, the administrative law judge must prepare a
2 proposed decision upon the additional evidence and upon
3 the transcript and other papers that are part of the
4 record of the prior hearing and must submit the proposed
5 decision to the agency or to the examining, advisory, or
6 disciplinary board. If the administrative law judge who
7 heard the case originally is unavailable to take the
8 additional evidence, by reason of illness or other
9 disability or because he or she is no longer employed by
10 the Office, the Chief Administrative Law Judge must
11 assign a different administrative law judge to take the
12 additional evidence.

13 (5 ILCS 100/12-40 new)

14 Sec. 12-40. Transition.

15 (a) The Governor must appoint a Chief Administrative Law
16 Judge to take office on July 1, 2004.

17 (b) No later than July 1, 2004, each agency must provide
18 to the Chief Administrative Law Judge all relevant
19 information concerning hearings, number of hearings,
20 personnel used as hearing officers and support staff, and
21 actual expenditures for contracted hearing officer services,
22 equipment, and travel.

23 (c) All full-time administrative law judges used
24 principally to preside over administrative hearings conducted
25 by an agency subject to the provisions of this Act for at
26 least one year before July 1, 2004 must be administratively
27 transferred to the Office no later than January 1, 2005.

28 (d) All full-time employees who have principally served
29 as support staff of those employees transferred under
30 subsection (c) of this Section must be administratively
31 transferred to the Office no later than January 1, 2005.

32 (e) All equipment or other tangible property, in
33 possession of agencies, used or held principally by personnel

1 transferred under this Section must be transferred to the
2 Office not later than January 1, 2005, unless the head of the
3 agency and the Chief Administrative Law Judge determine that
4 the equipment or property will be more efficiently used by
5 the agency if not transferred.

6 Section 10. The Personnel Code is amended by changing
7 Section 4c as follows:

8 (20 ILCS 415/4c) (from Ch. 127, par. 63b104c)

9 Sec. 4c. General exemptions. The following positions in
10 State service shall be exempt from jurisdictions A, B, and C,
11 unless the jurisdictions shall be extended as provided in
12 this Act:

13 (1) All officers elected by the people.

14 (2) All positions under the Lieutenant Governor,
15 Secretary of State, State Treasurer, State Comptroller,
16 State Board of Education, Clerk of the Supreme Court, and
17 Attorney General.

18 (3) Judges, and officers and employees of the
19 courts, and notaries public.

20 (4) All officers and employees of the Illinois
21 General Assembly, all employees of legislative
22 commissions, all officers and employees of the Illinois
23 Legislative Reference Bureau, the Legislative Research
24 Unit, and the Legislative Printing Unit.

25 (5) All positions in the Illinois National Guard
26 and Illinois State Guard, paid from federal funds or
27 positions in the State Military Service filled by
28 enlistment and paid from State funds.

29 (6) All employees of the Governor at the executive
30 mansion and on his immediate personal staff.

31 (7) Directors of Departments, the Adjutant General,
32 the Assistant Adjutant General, the Director of the

1 Illinois Emergency Management Agency, members of boards
2 and commissions, and all other positions appointed by
3 the Governor by and with the consent of the Senate.

4 (8) The presidents, other principal administrative
5 officers, and teaching, research and extension faculties
6 of Chicago State University, Eastern Illinois University,
7 Governors State University, Illinois State University,
8 Northeastern Illinois University, Northern Illinois
9 University, Western Illinois University, the Illinois
10 Community College Board, Southern Illinois University,
11 Illinois Board of Higher Education, University of
12 Illinois, State Universities Civil Service System,
13 University Retirement System of Illinois, and the
14 administrative officers and scientific and technical
15 staff of the Illinois State Museum.

16 (9) All other employees except the presidents,
17 other principal administrative officers, and teaching,
18 research and extension faculties of the universities
19 under the jurisdiction of the Board of Regents and the
20 colleges and universities under the jurisdiction of the
21 Board of Governors of State Colleges and Universities,
22 Illinois Community College Board, Southern Illinois
23 University, Illinois Board of Higher Education, Board of
24 Governors of State Colleges and Universities, the Board
25 of Regents, University of Illinois, State Universities
26 Civil Service System, University Retirement System of
27 Illinois, so long as these are subject to the provisions
28 of the State Universities Civil Service Act.

29 (10) The State Police so long as they are subject
30 to the merit provisions of the State Police Act.

31 (11) The scientific staff of the State Scientific
32 Surveys and the Waste Management and Research Center.

33 (12) The technical and engineering staffs of the
34 Department of Transportation, the Department of Nuclear

1 Safety, the Pollution Control Board, and the Illinois
2 Commerce Commission, and the technical and engineering
3 staff providing architectural and engineering services in
4 the Department of Central Management Services.

5 (13) All employees of the Illinois State Toll
6 Highway Authority.

7 (14) The Secretary of the Industrial Commission.

8 (15) All persons who are appointed or employed by
9 the Director of Insurance under authority of Section 202
10 of the Illinois Insurance Code to assist the Director of
11 Insurance in discharging his responsibilities relating to
12 the rehabilitation, liquidation, conservation, and
13 dissolution of companies that are subject to the
14 jurisdiction of the Illinois Insurance Code.

15 (16) All employees of the St. Louis Metropolitan
16 Area Airport Authority.

17 (17) All investment officers employed by the
18 Illinois State Board of Investment.

19 (18) Employees of the Illinois Young Adult
20 Conservation Corps program, administered by the Illinois
21 Department of Natural Resources, authorized grantee under
22 Title VIII of the Comprehensive Employment and Training
23 Act of 1973, 29 USC 993.

24 (19) Seasonal employees of the Department of
25 Agriculture for the operation of the Illinois State Fair
26 and the DuQuoin State Fair, no one person receiving more
27 than 29 days of such employment in any calendar year.

28 (20) All "temporary" employees hired under the
29 Department of Natural Resources' Illinois Conservation
30 Service, a youth employment program that hires young
31 people to work in State parks for a period of one year or
32 less.

33 (21) All hearing officers of the Human Rights
34 Commission.

1 (22) All employees of the Illinois Mathematics and
2 Science Academy.

3 (23) All employees of the Kankakee River Valley
4 Area Airport Authority.

5 (24) All employees of the Office of Administrative
6 Hearings.

7 (Source: P.A. 90-490, eff. 8-17-97; 91-214, eff. 1-1-00;
8 91-357, eff. 7-29-99.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.

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5 ILCS 100/1-13 new
5 ILCS 100/1-15 from Ch. 127, par. 1001-15
5 ILCS 100/1-30 from Ch. 127, par. 1001-30
5 ILCS 100/10-5 from Ch. 127, par. 1010-5
5 ILCS 100/10-15 from Ch. 127, par. 1010-15
5 ILCS 100/10-20 from Ch. 127, par. 1010-20
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5 ILCS 100/10-50 from Ch. 127, par. 1010-50
5 ILCS 100/10-60 from Ch. 127, par. 1010-60
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5 ILCS 100/Art. 12 heading new
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