

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--1, 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 (Source: P.A. 90-9, eff. 7-1-97; 90-185, eff. 7-23-97;
19 90-655, eff. 7-30-98.)

20 (5 ILCS 100/1-13 new)

21 Sec. 1-13. "Administrative hearing" means any hearing
22 required to comply with the provisions of this Act concerning
23 a contested case.

24 (5 ILCS 100/1-15) (from Ch. 127, par. 1001-15)

25 Sec. 1-15. "Administrative law judge" means the
26 presiding officer or officers at the initial administrative
27 hearing before each agency and each continuation of that
28 administrative hearing. The term also includes but is not
29 limited to hearing examiners, hearing officers, referees, and
30 arbitrators.

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

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

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

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

9 (5 ILCS 100/10-5) (from Ch. 127, par. 1010-5)

10 Sec. 10-5. Rules required for hearings. All agencies
11 shall adopt rules establishing procedures for administrative
12 ~~contested~~-ease hearings.

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

14 (5 ILCS 100/10-15) (from Ch. 127, par. 1010-15)

15 Sec. 10-15. Standard of proof. Unless otherwise
16 provided by law or stated in the agency's rules, the standard
17 of proof in any administrative ~~contested~~-ease hearing
18 conducted under this Act by an agency shall be the
19 preponderance of the evidence.

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

21 (5 ILCS 100/10-20) (from Ch. 127, par. 1010-20)

22 Sec. 10-20. Qualifications of administrative law judges.
23 ~~All~~ Agencies shall adopt rules concerning the minimum
24 qualifications of administrative law judges for
25 administrative ~~contested~~-ease hearings not subject to Article
26 12 of this Act. The agency head or an attorney licensed to
27 practice law in Illinois may act as an administrative law
28 judge or panel for an agency without adopting any rules under
29 this Section. The These rules may be adopted using the
30 procedures in either Section 5-15 or 5-35.

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

1 (5 ILCS 100/10-25) (from Ch. 127, par. 1010-25)

2 Sec. 10-25. Notice of contested cases; administrative
3 notice; hearing.

4 (a) In a contested case, all parties shall be afforded
5 an opportunity for an administrative a hearing after
6 reasonable notice. The notice shall be served personally or
7 by certified or registered mail or as otherwise provided by
8 law upon the parties or their agents appointed to receive
9 service of process and shall include the following:

10 (1) A statement of the time, place, and nature of
11 the administrative hearing.

12 (2) A statement of the legal authority and
13 jurisdiction under which the administrative hearing is to
14 be held.

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

17 (4) Except where a more detailed statement is
18 otherwise provided for by law, a short and plain
19 statement of the matters asserted, the consequences of a
20 failure to respond, and the official file or other
21 reference number.

22 (5) The names and mailing addresses of the
23 administrative law judge, all parties, and all other
24 persons to whom the agency gives notice of the
25 administrative hearing unless otherwise confidential by
26 law.

27 (b) An opportunity shall be afforded all parties to be
28 represented by legal counsel and to respond and present
29 evidence and argument.

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

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

1 (5 ILCS 100/10-45) (from Ch. 127, par. 1010-45)

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

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

18 (5 ILCS 100/10-50) (from Ch. 127, par. 1010-50)

19 Sec. 10-50. Decisions and orders.

20 (a) A final decision or order adverse to a party (other
21 than the agency) in a contested case shall be in writing or
22 stated in the record. A final decision shall include
23 findings of fact and conclusions of law, separately stated.
24 Findings of fact, if set forth in statutory language, shall
25 be accompanied by a concise and explicit statement of the
26 underlying facts supporting the findings. If, in accordance
27 with agency rules, a party submitted proposed findings of
28 fact, the decision shall include a ruling upon each proposed
29 finding. Parties or their agents appointed to receive
30 service of process shall be notified either personally or by
31 registered or certified mail of any decision or order. Upon
32 request a copy of the decision or order shall be delivered or
33 mailed forthwith to each party and to each his attorney of

1 record.

2 (b) All agency orders shall specify whether they are
3 final and subject to the Administrative Review Law. In the
4 event that the agency submits a matter to the separate,
5 independent Office of Administrative Hearings for
6 adjudication pursuant to Article 12 of this Act, the agency,
7 and not the Office of Administrative Hearings, shall remain
8 the required named party for purposes of the Administrative
9 Review Law.

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

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

18 (5 ILCS 100/10-60) (from Ch. 127, par. 1010-60)

19 Sec. 10-60. Ex parte communications.

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

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

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

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

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

15 (5 ILCS 100/10-65) (from Ch. 127, par. 1010-65)
16 Sec. 10-65. Licenses.

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

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

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

1 so certify shall result in disciplinary action, and that
2 making a false statement may subject the licensee to contempt
3 of court. The agency shall notify each applicant or licensee
4 who acknowledges a delinquency or who, contrary to his or her
5 certification, is found to be delinquent or who after
6 receiving notice, fails to comply with a subpoena or warrant
7 relating to a paternity or a child support proceeding, that
8 the agency intends to take disciplinary action. Accordingly,
9 the agency shall provide written notice of the facts or
10 conduct upon which the agency will rely to support its
11 proposed action and the applicant or licensee shall be given
12 an opportunity for an administrative a hearing in accordance
13 with the provisions of the Act concerning contested cases.
14 Any delinquency in complying with a child support order can
15 be remedied by arranging for payment of past due and current
16 support. Any failure to comply with a subpoena or warrant
17 relating to a paternity or child support proceeding can be
18 remedied by complying with the subpoena or warrant. Upon a
19 final finding of delinquency or failure to comply with a
20 subpoena or warrant, the agency shall suspend, revoke, or
21 refuse to issue or renew the license. In cases in which the
22 Department of Public Aid has previously determined that an
23 applicant or a licensee is more than 30 days delinquent in
24 the payment of child support and has subsequently certified
25 the delinquency to the licensing agency, and in cases in
26 which a court has previously determined that an applicant or
27 licensee has been in violation of the Non-Support Punishment
28 Act for more than 60 days, the licensing agency shall refuse
29 to issue or renew or shall revoke or suspend that person's
30 license based solely upon the certification of delinquency
31 made by the Department of Public Aid or the certification of
32 violation made by the court. Further process, hearings, or
33 redetermination of the delinquency or violation by the
34 licensing agency shall not be required. The licensing

1 agency may issue or renew a license if the licensee has
 2 arranged for payment of past and current child support
 3 obligations in a manner satisfactory to the Department of
 4 Public Aid or the court. The licensing agency may impose
 5 conditions, restrictions, or disciplinary action upon that
 6 license.

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

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

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

29 (5 ILCS 100/Art. 12 heading new)

30 ARTICLE 12. OFFICE OF ADMINISTRATIVE HEARINGS

31 (5 ILCS 100/12-5 new)

32 Sec. 12-5. Applicability. This Article applies to all

1 agencies under the jurisdiction of the Governor other than
2 the following:

3 (a) Illinois Labor Relations Boards created under the
4 Illinois Public Labor Relations Act;

5 (b) Illinois Education Labor Relations Board;

6 (c) Illinois Commerce Commission;

7 (d) Illinois Industrial Commission;

8 (e) Civil Service Commission;

9 (f) Pollution Control Board;

10 (g) Illinois State Police Merit Board;

11 (h) Property Tax Appeal Board; and

12 (i) Human Rights Commission.

13 (5 ILCS 100/12-10 new)

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

15 (a) The Office of Administrative Hearings (Office) is
16 established for the purpose of separating the adjudicatory
17 function from the investigatory, prosecutory, and
18 policy-making functions of agencies in the executive branch.
19 The Office is an independent State agency in the executive
20 branch and is responsible for conducting administrative
21 hearings in accordance with the legislative intent expressed
22 by this Act.

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

32 (c) The Chief Administrative Law Judge must maintain his
33 or her principal office in Springfield and may maintain any

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

6 (5 ILCS 100/12-15 new)

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

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

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

14 (5 ILCS 100/12-20 new)

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

20 (5 ILCS 100/12-25 new)

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

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

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

14 (2) The Chief Administrative Law Judge may employ
15 persons who are not admitted to practice as an attorney
16 to act as administrative law judges if they are
17 transferred to the Office under subsection (c) of Section
18 12-40 of this Article.

19 (b) Administrative law judges employed by the Office are
20 not subject to the Personnel Code. The Chief Administrative
21 Law Judge must establish hiring procedures based upon merit
22 and fitness and may discipline and terminate employees based
23 only upon good cause, after notice and an opportunity for a
24 hearing and a finding of good cause by an impartial hearing
25 officer. The Chief Administrative Law Judge must fix
26 salaries of Office administrative law judges and adopt
27 personnel rules establishing a general salary schedule
28 according to a classification of employees, subject to merit
29 increases, that applies to all Office administrative law
30 judges. The Chief Administrative Law Judge must adopt a code
31 of conduct and rules concerning the hiring, discipline, and
32 termination of Office administrative law judges and the
33 resolution of grievances.

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 shall also develop and implement a code
3 of professional conduct for its administrative law judges,
4 incorporating the provisions of the Code of Judicial Conduct
5 whenever possible. The Office may develop and institute
6 other educational programs in the area of administrative law
7 and procedure for the benefit of State employees and those
8 who participate in administrative hearings.

9 (h) The Office must:

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

15 (2) monitor the quality and cost of State
16 administrative hearings; and

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

20 (5 ILCS 100/12-30 new)

21 Sec. 12-30. Proceedings. Beginning on January 1, 2004,
22 an administrative law judge of the Office shall preside over
23 any administrative hearing of any agency subject to this
24 Article, except that an administrative hearing in a contested
25 case commenced prior to January 1, 2004 and pending before an
26 administrative law judge not transferred to the Office of
27 Administrative Hearings by operation of Section 12-40 of this
28 Article shall not be heard by an administrative law judge of
29 the Office without the agreement of the parties.

30 (5 ILCS 100/12-35 new)

31 Sec. 12-35. Administrative hearing procedures.

32 (a) Time and place of hearing. The Office must consult

1 the agency and determine the place and the time of
2 commencement of the administrative hearing.

3 (b) Powers of administrative law judge. The
4 administrative law judge presides at the administrative
5 hearing and may:

6 (1) administer oaths and affirmations;

7 (2) rule on offers of proof and receive relevant
8 evidence;

9 (3) regulate the schedule and the course of the
10 hearing;

11 (4) dispose of procedural requests or similar
12 matters;

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

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

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

30 (c) Disqualifications.

31 (1) An administrative law judge of the Office must
32 voluntarily disqualify himself or herself and withdraw
33 from any case for bias, prejudice, interest, or any other
34 cause for which, under the laws of this State, a State

1 court judge is disqualified from hearing a particular
2 case. An administrative law judge should perform the
3 duties of the Office impartially and diligently.

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

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

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

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

1 administrative law judge may have the aid and advice of one
2 or more assistants.

3 (e) Proposed decisions. When a majority of the members
4 of an agency or of an examining, advisory, or disciplinary
5 board has not heard a case with the administrative law judge,
6 any proposed decision prepared by an administrative law judge
7 of the Office is subject to this subsection (e) and Section
8 10-45 of this Act.

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

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

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

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

16 (5 ILCS 100/12-40 new)

17 Sec. 12-40. Transition.

18 (a) The Governor must appoint a Chief Administrative Law
19 Judge to take office on July 1, 2003.

20 (b) No later than July 1, 2003, each agency must provide
21 to the Chief Administrative Law Judge all relevant
22 information concerning hearings, number of hearings,
23 personnel used as hearing officers and support staff, and
24 actual expenditures for contracted hearing officer services,
25 equipment, and travel.

26 (c) All full-time administrative law judges used
27 principally to preside over administrative hearings conducted
28 by an agency subject to the provisions of this Act for at
29 least one year before July 1, 2003 must be administratively
30 transferred to the Office no later than January 1, 2004.

31 (d) All full-time employees who have principally served
32 as support staff of those employees transferred under
33 subsection (c) of this Section must be administratively

1 transferred to the Office no later than January 1, 2004.

2 (e) All equipment or other tangible property, in
3 possession of agencies, used or held principally by personnel
4 transferred under this Section must be transferred to the
5 Office not later than January 1, 2004, unless the head of the
6 agency and the Chief Administrative Law Judge determine that
7 the equipment or property will be more efficiently used by
8 the agency if not transferred.

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

11 (20 ILCS 415/4c) (from Ch. 127, par. 63b104c)

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

16 (1) All officers elected by the people.

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

21 (3) Judges, and officers and employees of the
22 courts, and notaries public.

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

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

32 (6) All employees of the Governor at the executive

1 mansion and on his immediate personal staff.

2 (7) Directors of Departments, the Adjutant General,
3 the Assistant Adjutant General, the Director of the
4 Illinois Emergency Management Agency, members of boards
5 and commissions, and all other positions appointed by
6 the Governor by and with the consent of the Senate.

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

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

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

34 (11) The scientific staff of the State Scientific

1 Surveys and the Waste Management and Research Center.

2 (12) The technical and engineering staffs of the
3 Department of Transportation, the Department of Nuclear
4 Safety, the Pollution Control Board, and the Illinois
5 Commerce Commission, and the technical and engineering
6 staff providing architectural and engineering services in
7 the Department of Central Management Services.

8 (13) All employees of the Illinois State Toll
9 Highway Authority.

10 (14) The Secretary of the Industrial Commission.

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

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

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

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

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

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

1 less.

2 (21) All hearing officers of the Human Rights
3 Commission.

4 (22) All employees of the Illinois Mathematics and
5 Science Academy.

6 (23) All employees of the Kankakee River Valley
7 Area Airport Authority.

8 (24) All administrative law judges of the Office of
9 Administrative Hearings.

10 (Source: P.A. 90-490, eff. 8-17-97; 91-214, eff. 1-1-00;
11 91-357, eff. 7-29-99.)

12 Section 15. The Code of Civil Procedure is amended by
13 changing Sections 3-106 and 3-107 as follows:

14 (735 ILCS 5/3-106) (from Ch. 110, par. 3-106)

15 Sec. 3-106. Appearance of defendants. In any action to
16 review any final decision of any administrative agency, the
17 agency shall appear by filing an answer consisting of a
18 record of the proceedings had before it, or a written motion
19 in the cause or a written appearance. In the event that the
20 agency submits a matter to the separate, independent Office
21 of Administrative Hearings for adjudication pursuant to
22 Article 12 of the Illinois Administrative Procedure Act, the
23 agency, and not the Office of Administrative Hearings, shall
24 remain the required named party for purposes of this
25 Administrative Review Law. All other defendants desiring to
26 appear shall appear by filing a written appearance. Every
27 appearance shall be filed within the time fixed by rule of
28 the Supreme Court, and shall state with particularity an
29 address where service of notices or papers may be made upon
30 the defendant so appearing, or his or her attorney.

31 (Source: P.A. 88-1.)

1 (735 ILCS 5/3-107) (from Ch. 110, par. 3-107)
2 Sec. 3-107. Defendants.

3 (a) Except as provided in subsection (b), in any action
4 to review any final decision of an administrative agency, the
5 administrative agency and all persons, other than the
6 plaintiff, who were parties of record to the proceedings
7 before the administrative agency shall be made defendants.
8 However, when the matter was adjudicated before a separate,
9 independent adjudicatory office established pursuant to
10 Article 12 of the Illinois Administrative Procedure Act,
11 Division 2.1 of Article 1 of the Illinois Municipal Code, or
12 Division 2.2 of Article 1 of the Illinois Municipal Code, the
13 agency that submitted the matter for adjudication, not the
14 separate, independent adjudicatory office, shall be deemed to
15 be the required named defendant for purposes of this
16 Administrative Review Law. No action for administrative
17 review shall be dismissed for lack of jurisdiction based upon
18 the failure to name an employee, agent, or member, who acted
19 in his or her official capacity, of an administrative agency,
20 board, committee, or government entity, where the
21 administrative agency, board, committee, or government
22 entity, has been named as a defendant as provided in this
23 Section. Naming the director or agency head, in his or her
24 official capacity, shall be deemed to include as defendant
25 the administrative agency, board, committee, or government
26 entity that the named defendants direct or head. No action
27 for administrative review shall be dismissed for lack of
28 jurisdiction based upon the failure to name an administrative
29 agency, board, committee, or government entity, where the
30 director or agency head, in his or her official capacity, has
31 been named as a defendant as provided in this Section.

32 If, during the course of a review action, the court
33 determines that a party of record to the administrative
34 proceedings was not made a defendant as required by the

1 preceding paragraph, and only if that party was not named by
2 the administrative agency in its final order as a party of
3 record, then the court shall grant the plaintiff 21 days from
4 the date of the determination in which to name and serve the
5 unnamed party as a defendant. The court shall permit the
6 newly served defendant to participate in the proceedings to
7 the extent the interests of justice may require.

8 (b) With respect to actions to review decisions of a
9 zoning board of appeals in a municipality with a population
10 of 500,000 or more inhabitants under Division 13 of Article
11 11 of the Illinois Municipal Code, "parties of record" means
12 only the zoning board of appeals and applicants before the
13 zoning board of appeals. The plaintiff shall send a notice
14 of filing of the action by certified mail to each other
15 person who appeared before and submitted oral testimony or
16 written statements to the zoning board of appeals with
17 respect to the decision appealed from. The notice shall be
18 mailed within 2 days of the filing of the action. The notice
19 shall state the caption of the action, the court in which the
20 action is filed, and the names of the plaintiff in the action
21 and the applicant to the zoning board of appeals. The notice
22 shall inform the person of his or her right to intervene.
23 Each person who appeared before and submitted oral testimony
24 or written statements to the zoning board of appeals with
25 respect to the decision appealed from shall have a right to
26 intervene as a defendant in the action upon application made
27 to the court within 30 days of the mailing of the notice.

28 (Source: P.A. 88-1; 88-655, eff. 9-16-94; 89-438, eff.
29 12-15-95; 89-685, eff. 6-1-97.)

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