

**SB0058**



**95TH GENERAL ASSEMBLY**

**State of Illinois**

**2007 and 2008**

**SB0058**

Introduced 1/31/2007, by Sen. Don Harmon

**SYNOPSIS AS INTRODUCED:**

See Index

Amends the Illinois Administrative Procedure Act to create the Office of Administrative Hearings. Provides that the Office shall conduct administrative hearings for agencies under the jurisdiction of the Governor, except for the Illinois Public Labor Relations Board, the Illinois Educational Labor Relations Board, the Illinois Commerce Commission, the Illinois Workers' Compensation Commission, the Civil Service Commission, the Pollution Control Board, the Illinois State Police Merit Board, the Property Tax Appeal Board, the Human Rights Commission, and the State Board of Elections. Provides for the appointment of a Chief Administrative Law Judge by the Governor with the advice and consent of the Senate. Sets the powers and duties of the Chief Administrative Law Judge. Sets qualifications for administrative law judges employed by the Office. Sets out procedures for the conduct of administrative hearings by the Office. Provides for the transfer of personnel and property to the Office from State agencies. Amends the Personnel Code to exempt employees of the Office from the provisions of the Code. Effective immediately.

LRB095 03623 JAM 23645 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

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 Sections 1-13 and 10-3 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 the  
12 provisions of this Act and the Act creating or conferring power  
13 on an agency, this Act shall control. ~~If, however, an agency~~  
14 ~~(or its predecessor in the case of an agency that has been~~  
15 ~~consolidated or reorganized) has existing procedures on July 1,~~  
16 ~~1977, specifically for contested cases or licensing, those~~  
17 ~~existing provisions control, except that this exception~~  
18 ~~respecting contested cases and licensing does not apply if the~~  
19 ~~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.

1           (b) The provisions of this Act do not apply to (i)  
2 preliminary hearings, investigations, or practices where no  
3 final determinations affecting State funding are made by the  
4 State Board of Education, (ii) legal opinions issued under  
5 Section 2-3.7 of the School Code, (iii) as to State colleges  
6 and universities, their disciplinary and grievance  
7 proceedings, academic irregularity and capricious grading  
8 proceedings, and admission standards and procedures, and (iv)  
9 the class specifications for positions and individual position  
10 descriptions prepared and maintained under the Personnel Code.  
11 Those class specifications shall, however, be made reasonably  
12 available to the public for inspection and copying. The  
13 provisions of this Act do not apply to hearings under Section  
14 20 of the Uniform Disposition of Unclaimed Property Act.

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

17           (1) Rules adopted by the Pollution Control Board that,  
18 in accordance with Section 7.2 of the Environmental  
19 Protection Act, are identical in substance to federal  
20 regulations or amendments to those regulations  
21 implementing the following: Sections 3001, 3002, 3003,  
22 3004, 3005, and 9003 of the Solid Waste Disposal Act;  
23 Section 105 of the Comprehensive Environmental Response,  
24 Compensation, and Liability Act of 1980; Sections 307(b),  
25 307(c), 307(d), 402(b)(8), and 402(b)(9) of the Federal  
26 Water Pollution Control Act; and Sections 1412(b),

1 1414(c), 1417(a), 1421, and 1445(a) of the Safe Drinking  
2 Water Act.

3 (2) Rules adopted by the Pollution Control Board that  
4 establish or amend standards for the emission of  
5 hydrocarbons and carbon monoxide from gasoline powered  
6 motor vehicles subject to inspection under Section 13A-105  
7 of the Vehicle Emissions Inspection Law and rules adopted  
8 under Section 13B-20 of the Vehicle Emissions Inspection  
9 Law of 1995.

10 (3) Procedural rules adopted by the Pollution Control  
11 Board governing requests for exceptions under Section 14.2  
12 of the Environmental Protection Act.

13 (4) The Pollution Control Board's grant, pursuant to an  
14 adjudicatory determination, of an adjusted standard for  
15 persons who can justify an adjustment consistent with  
16 subsection (a) of Section 27 of the Environmental  
17 Protection Act.

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

23 (d) Pay rates established under Section 8a of the Personnel  
24 Code shall be amended or repealed pursuant to the process set  
25 forth in Section 5-50 within 30 days after it becomes necessary  
26 to do so due to a conflict between the rates and the terms of a

1 collective bargaining agreement covering the compensation of  
2 an employee subject to that Code.

3 (e) Section 10-45 of this Act shall not apply to any  
4 hearing, proceeding, or investigation conducted under Section  
5 13-515 of the Public Utilities Act.

6 (f) Article 10 of this Act does not apply to any hearing,  
7 proceeding, or investigation conducted by the State Council for  
8 the State of Illinois created under Section 3-3-11.05 of the  
9 Unified Code of Corrections or by the Interstate Commission  
10 ~~Commission~~ for Adult Offender Supervision created under the  
11 Interstate Compact for Adult Offender Supervision.

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

13 (5 ILCS 100/1-13 new)

14 Sec. 1-13. "Administrative hearing" means any hearing  
15 required to comply with the provisions of this Act concerning a  
16 contested case.

17 (5 ILCS 100/1-15) (from Ch. 127, par. 1001-15)

18 Sec. 1-15. "Administrative law judge" means the presiding  
19 officer or officers at the initial administrative hearing  
20 before each agency and each continuation of that administrative  
21 hearing. The term also includes but is not limited to hearing  
22 examiners, hearing officers, referees, and arbitrators.

23 (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 100/10-3 new)

10 Sec. 10-3. Applicability. This Article applies to all  
11 agencies not covered by Article 12.

12 (5 ILCS 100/10-5) (from Ch. 127, par. 1010-5)

13 Sec. 10-5. Rules required for hearings. All agencies shall  
14 adopt rules establishing procedures for administrative  
15 ~~contested case~~ hearings.

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

17 (5 ILCS 100/10-15) (from Ch. 127, par. 1010-15)

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

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

1 (5 ILCS 100/10-20) (from Ch. 127, par. 1010-20)

2 Sec. 10-20. Qualifications of administrative law judges.  
3 ~~All~~ Agencies shall adopt rules concerning the minimum  
4 qualifications of administrative law judges for administrative  
5 ~~contested case~~ hearings not subject to Article 12 of this Act.  
6 The agency head or an attorney licensed to practice law in  
7 Illinois may act as an administrative law judge or panel for an  
8 agency without adopting any rules under this Section. ~~The~~ ~~These~~  
9 rules may be adopted using the procedures in either Section  
10 5-15 or 5-35.

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

12 (5 ILCS 100/10-25) (from Ch. 127, par. 1010-25)

13 Sec. 10-25. Notice of contested cases; administrative  
14 ~~notice;~~ hearing.

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

21 (1) A statement of the time, place, and nature of the  
22 administrative hearing.

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

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

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

7           (5) The names and mailing addresses of the  
8 administrative law judge, all parties, and all other  
9 persons to whom the agency gives notice of the  
10 administrative hearing unless otherwise confidential by  
11 law.

12           (b) An opportunity shall be afforded all parties to be  
13 represented by legal counsel and to respond and present  
14 evidence and argument.

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

18           (Source: P.A. 87-823.)

19           (5 ILCS 100/10-45) (from Ch. 127, par. 1010-45)

20           Sec. 10-45. Proposal for decision. Except where otherwise  
21 expressly provided by law, when in a contested case a majority  
22 of the officials of the agency who are to render the final  
23 decision has not heard the case or read the record, the  
24 decision, if adverse to a party to the proceeding other than  
25 the agency, shall not be made until a proposal for decision is



1 served upon the parties and an opportunity is afforded to each  
2 party adversely affected to file exceptions and to present a  
3 brief and, if the agency so permits, oral argument to the  
4 agency officials who are to render the decision. The proposal  
5 for decision shall contain a statement of the reasons therefor  
6 and of each issue of fact or law necessary to the proposed  
7 decision and shall be prepared by the persons who conducted the  
8 administrative hearing or one who has read the record.

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

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

11 Sec. 10-50. Decisions and orders.

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

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

3 (c) A decision by any agency in a contested case under this  
4 Act shall be void unless the proceedings are conducted in  
5 compliance with the provisions of this Act relating to  
6 contested cases, except to the extent those provisions are  
7 waived under Section 10-70 ~~and except to the extent the agency~~  
8 ~~has adopted its own rules for contested cases as authorized in~~  
9 ~~Section 1-5.~~

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

11 (5 ILCS 100/10-60) (from Ch. 127, par. 1010-60)

12 Sec. 10-60. Ex parte communications.

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

23 (b) However, an agency member may communicate with other  
24 members of the agency, and an agency member or administrative  
25 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 head,  
3 agency employee, or administrative law judge shall be made a  
4 part of the record of the pending matter, including all written  
5 communications, all written responses to the communications,  
6 and a memorandum stating the substance of all oral  
7 communications and all responses made and the identity of each  
8 person from whom the ex parte communication was 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 by  
18 notice and an opportunity for an administrative ~~a~~ hearing, the  
19 provisions of this Act concerning contested cases shall apply.

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

1           (c) Except as provided in Section 1-27 of the Department of  
2 Natural Resources Act, an application for the renewal of a  
3 license or a new license shall include the applicant's social  
4 security number. Each agency shall require the licensee to  
5 certify on the application form, under penalty of perjury, that  
6 he or she is not more than 30 days delinquent in complying with  
7 a child support order. Every application shall state that  
8 failure to so certify shall result in disciplinary action, and  
9 that making a false statement may subject the licensee to  
10 contempt of court. The agency shall notify each applicant or  
11 licensee who acknowledges a delinquency or who, contrary to his  
12 or her certification, is found to be delinquent or who after  
13 receiving notice, fails to comply with a subpoena or warrant  
14 relating to a paternity or a child support proceeding, that the  
15 agency intends to take disciplinary action. Accordingly, the  
16 agency shall provide written notice of the facts or conduct  
17 upon which the agency will rely to support its proposed action  
18 and the applicant or licensee shall be given an opportunity for  
19 an administrative a hearing in accordance with the provisions  
20 of the Act concerning contested cases. Any delinquency in  
21 complying with a child support order can be remedied by  
22 arranging for payment of past due and current support. Any  
23 failure to comply with a subpoena or warrant relating to a  
24 paternity or child support proceeding can be remedied by  
25 complying with the subpoena or warrant. Upon a final finding of  
26 delinquency or failure to comply with a subpoena or warrant,

1 the agency shall suspend, revoke, or refuse to issue or renew  
2 the license. In cases in which the Department of Healthcare and  
3 Family Services (formerly Department of Public Aid) has  
4 previously determined that an applicant or a licensee is more  
5 than 30 days delinquent in the payment of child support and has  
6 subsequently certified the delinquency to the licensing  
7 agency, and in cases in which a court has previously determined  
8 that an applicant or licensee has been in violation of the  
9 Non-Support Punishment Act for more than 60 days, the licensing  
10 agency shall refuse to issue or renew or shall revoke or  
11 suspend that person's license based solely upon the  
12 certification of delinquency made by the Department of  
13 Healthcare and Family Services (formerly Department of Public  
14 Aid) or the certification of violation made by the court.  
15 Further process, hearings, or redetermination of the  
16 delinquency or violation by the licensing agency shall not be  
17 required. The licensing agency may issue or renew a license if  
18 the licensee has arranged for payment of past and current child  
19 support obligations in a manner satisfactory to the Department  
20 of Healthcare and Family Services (formerly Department of  
21 Public Aid) or the court. The licensing agency may impose  
22 conditions, restrictions, or disciplinary action upon that  
23 license.

24 (d) Except as provided in subsection (c), no agency shall  
25 revoke, suspend, annul, withdraw, amend materially, or refuse  
26 to renew any valid license without first giving written notice

1 to the licensee of the facts or conduct upon which the agency  
2 will rely to support its proposed action and an opportunity for  
3 an administrative a hearing in accordance with the provisions  
4 of this Act concerning contested cases. At the administrative  
5 hearing, the licensee shall have the right to show compliance  
6 with all lawful requirements for the retention, continuation,  
7 or renewal of the license. If, however, the agency finds that  
8 the public interest, safety, or welfare imperatively requires  
9 emergency action, and if the agency incorporates a finding to  
10 that effect in its order, summary suspension of a license may  
11 be ordered pending proceedings for revocation or other action.  
12 Those proceedings shall be promptly instituted and determined.

13 (e) Any application for renewal of a license that contains  
14 required and relevant information, data, material, or  
15 circumstances that were not contained in an application for the  
16 existing license shall be subject to the provisions of  
17 subsection (a).

18 (Source: P.A. 94-40, eff. 1-1-06; revised 12-15-05.)

19 (5 ILCS 100/Art. 12 heading new)

20 ARTICLE 12. OFFICE OF ADMINISTRATIVE HEARINGS

21 (5 ILCS 100/12-5 new)

22 Sec. 12-5. Applicability. This Article applies to all  
23 agencies under the jurisdiction of the Governor other than the  
24 following:

1       (a) Illinois Labor Relations Boards created under the  
2 Illinois Public Labor Relations Act;

3       (b) Illinois Educational Labor Relations Board;

4       (c) Illinois Commerce Commission;

5       (d) Illinois Workers' Compensation Commission;

6       (e) Civil Service Commission;

7       (f) Pollution Control Board;

8       (g) Illinois State Police Merit Board;

9       (h) Property Tax Appeal Board;

10      (i) Human Rights Commission; and

11      (j) State Board of Elections.

12      (5 ILCS 100/12-10 new)

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

14      (a) The Office of Administrative Hearings, hereinafter  
15 referred to as the Office, is established for the purpose of  
16 improving public trust and confidence in administrative  
17 adjudication by:

18          (1) separating the adjudicatory function from the  
19 investigatory, prosecutory, and policy-making functions of  
20 agencies in the executive branch;

21          (2) establishing a professional corp of administrative  
22 law judges;

23          (3) establishing greater uniformity in the rules of  
24 procedure and evidence in administrative adjudication; and

25          (4) eliminating unnecessary and duplicative costs in

1 administrative adjudication.

2 (b) The Office is an independent State agency in the  
3 executive branch and is responsible for conducting  
4 administrative hearings in accordance with the legislative  
5 intent expressed by this Act.

6 (c) The Office is under the administration, supervision,  
7 and direction of a Chief Administrative Law Judge, appointed by  
8 the Governor, by and with the advice and consent of the Senate.  
9 The Chief Administrative Law Judge, as a condition of  
10 appointment, must have been admitted to practice law in the  
11 State of Illinois for at least 10 years, must have substantial  
12 knowledge and experience suitable to the duties of the Office,  
13 and may be removed only for good cause following notice and an  
14 opportunity for an adjudicative hearing.

15 (d) The Chief Administrative Law Judge must maintain his or  
16 her principal office in Springfield and may maintain any other  
17 offices that may be necessary.

18 (e) The Office may purchase or lease any equipment and  
19 supplies that may be necessary to carry out its duties and must  
20 maintain records and files of the work of the Office.

21 (f) The Office of Administrative Hearings by and through  
22 the Chief Administrative Law Judge and any Administrative Law  
23 Judge under this Article is empowered to subpoena and bring  
24 before it, him, or her any person in this State and to take  
25 testimony, in person or by telephone, upon payment of the same  
26 fees, and in the same manner as is prescribed by law for



1 judicial proceedings in civil cases in the courts of this  
2 State. The term "Administrative Law Judge" as used in this  
3 Article means an administrative law judge as defined in 5 ILCS  
4 100/1-15 who is an employee of the Office.

5 (g) The Office may enter into an interagency agreement with  
6 any agency to furnish administrative law judges to conduct  
7 administrative hearings not otherwise required to be conducted  
8 by the Office. The Office may also enter into an agreement with  
9 a unit of local government or school district to furnish  
10 administrative law judges to conduct administrative hearings.

11 (h) Any finding, determination, ruling or order issued as  
12 result of any hearing conducted for any public entity subject  
13 to or contracted for under this Article shall have the same  
14 status and be subject to the same conditions and limitations as  
15 if conducted by that public entity. That entity shall remain  
16 the proper party named and served in any action in  
17 administrative review under the provisions of the  
18 Administrative Review Law or other review or appeal provision  
19 provided by law.

20 (i) The Office must develop and institute a program of  
21 continuing education and training for administrative law  
22 judges and may permit administrative law judges and hearing  
23 examiners employed by other agencies to participate in its  
24 program. The Office shall also develop and implement a code of  
25 professional conduct for its administrative law judges,  
26 incorporating the provisions of the Rules of Judicial Conduct

1 whenever possible. The Office may develop and institute other  
2 educational programs in the area of administrative law and  
3 procedure for the benefit of State employees and those who  
4 participate in administrative hearings.

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 as set by the Governor of Illinois from time to  
12 time or the amount established by the Compensation Review  
13 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 the  
17 oath or affirmation prescribed by Section 3 of Article XIII of  
18 the Illinois Constitution, an executed copy of which must be  
19 filed with the Secretary of State.

20 (5 ILCS 100/12-25 new)

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

1       (a) The Chief Administrative Law Judge may employ  
2 Administrative Law Judges that are necessary to carry out the  
3 purposes of this Article.

4       (b) Administrative Law Judges and their immediate  
5 supervisors shall be subject to Jurisdiction A, B, and C of the  
6 Personnel Code, except that provisions contained in 20 ILCS  
7 415/8b.18 and 19 shall not apply.

8       (c) Except as otherwise provided in Section 12-40 of this  
9 Article, an Administrative Law Judge must have been admitted to  
10 practice as an attorney in this State for at least 5 years and  
11 must have a demonstrated knowledge of and experience in  
12 administrative law and procedure that is suitable to the duties  
13 of the Office. Supervisors of Administrative Law Judges must be  
14 experienced administrative law judges.

15       (d) The Chief Administrative Law Judge may contract for the  
16 services of an attorney to serve as a special administrative  
17 law judge when necessary.

18       (e) The Chief Administrative Law Judge must adopt a code of  
19 conduct and rules concerning the discipline and termination of  
20 Office Administrative Law Judges and the resolution of  
21 grievances, subject to any collective bargaining agreement.

22       (f) The Chief Administrative Law Judge may employ and  
23 direct other staff, including administrative, supervisory,  
24 clerical, and other specialized or technical personnel that may  
25 be necessary to carry out the purposes of this Article.

26       (g) The Chief Administrative Law Judge must assign an

1 administrative law judge for any proceeding that is required by  
2 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 Section 12-10 of this  
5 Act.

6 (h) Any administrative law judge so assigned does not  
7 become an employee of the agency during the assignment and is  
8 not subject to the direction or the supervision of the agency  
9 to whose proceeding the administrative law judge has been  
10 assigned.

11 (i) In assigning administrative law judges, the Chief  
12 Administrative Law Judge must, when possible, use personnel  
13 having knowledge, training, or experience in the field or  
14 subject matter of the hearing and assign administrative law  
15 judges primarily to the hearings of particular agencies on a  
16 long-term basis. The Chief Administrative Law Judge may act as  
17 an administrative law judge in a particular case when  
18 appropriate under law.

19 (j) The Chief Administrative Law Judge shall adopt uniform  
20 rules of procedure and evidence governing hearings conducted by  
21 the Office of Administrative Hearings. Rules adopted by the  
22 Chief Administrative Law Judge shall supersede any contrary  
23 rules adopted by agencies subject to this Article except to the  
24 extent required by federal law or State statute. The Chief  
25 Administrative Law Judge may adopt such additional rules as  
26 necessary to carry out the powers and duties of the Office of

1 Administrative Hearings.

2 (k) The Chief Administrative Law Judge must:

3 (1) annually collect information on administrative law  
4 and procedure in Illinois and must study administrative law  
5 and procedure for the purpose of improving the fairness,  
6 efficiency, and uniformity of administrative adjudicatory  
7 proceedings in Illinois;

8 (2) monitor the quality and cost of State  
9 administrative hearings; and

10 (3) annually report his or her findings and  
11 recommendations to the Governor and to the General Assembly  
12 no later than March 15 of each year.

13 (5 ILCS 100/12-30 new)

14 Sec. 12-30. Proceedings. Beginning on January 1, 2009, an  
15 administrative law judge of the Office shall preside over any  
16 administrative hearing of any agency subject to this Article,  
17 except that an administrative hearing in a contested case  
18 commenced before January 1, 2009 and pending before an  
19 administrative law judge not transferred to the Office of  
20 Administrative Hearings by operation of Section 12-40 of this  
21 Article shall not be heard by an administrative law judge of  
22 the Office without the agreement of the parties.

23 (5 ILCS 100/12-35 new)

24 Sec. 12-35. Administrative Hearing Procedures.

1       (a) Time and place of hearing. The Office must consult the  
2 agency and determine the place and the time of commencement of  
3 the administrative hearing.

4       (b) Powers of administrative law judge. The administrative  
5 law judge presides at the administrative 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 matters;

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

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

26           (7) perform other necessary and appropriate acts in the

1 performance of his or her duties.

2 (c) Disqualifications.

3 (1) Administrative Law Judges shall be assigned to  
4 hearings in accordance with the procedures set forth by the  
5 Chief Administrative Law Judge. No agency may select any  
6 individual administrative law judge for any proceeding or  
7 reject any individual administrative law judge. In cases  
8 where the agency is a party to the hearing, it shall have  
9 all rights and privileges and be subject to the same  
10 limitations as all other parties to the hearing.

11 (2) An administrative law judge of the Office must  
12 voluntarily disqualify himself or herself and withdraw  
13 from any case for bias, prejudice, interest, or any other  
14 cause for which, under the laws of this State, a State  
15 court judge is disqualified from hearing a particular case.  
16 An administrative law judge should perform the duties of  
17 the Office impartially and diligently.

18 (3) Any party may petition for the disqualification of  
19 any administrative law judge by filing an affidavit stating  
20 with particularity the grounds upon which it is claimed  
21 that a fair and impartial hearing cannot be accorded. The  
22 affidavit must be filed before the taking of evidence or,  
23 if evidence has already been taken, promptly upon  
24 discovering facts establishing grounds for  
25 disqualification.

26 (4) The administrative law judge whose

1 disqualification is requested shall determine whether to  
2 grant the petition, stating facts and reasons for the  
3 determination.

4 (5) If an administrative law judge becomes unavailable  
5 as a result of recusal or any other reasons, the Chief  
6 Administrative Law Judge must assign another  
7 administrative law judge to preside at the administrative  
8 hearing.

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

24 (e) Proposed decisions. When a majority of the members of  
25 an agency or of an examining, advisory, or disciplinary board  
26 has not heard a case with the administrative law judge, any



1 proposed decision prepared by an administrative law judge of  
2 the Office is subject to this subsection (e) and Section 10-45  
3 of this Act.

4 (1) When an administrative law judge hears a case  
5 alone, he or she must prepare a decision. The  
6 administrative law judge must submit the decision to the  
7 agency or, in the case of proceedings that an examining,  
8 advisory, or disciplinary board is authorized by an Act to  
9 hear and make a recommended decision, to the examining,  
10 advisory, or disciplinary board.

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

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

1 additional evidence.

2 (4) If a case has been remanded to an administrative  
3 law judge to take additional evidence or to include more  
4 detailed findings of fact or conclusions of law, the  
5 administrative law judge must prepare a proposed decision  
6 upon the additional evidence and upon the transcript and  
7 other papers that are part of the record of the prior  
8 hearing and must submit the proposed decision to the agency  
9 or to the examining, advisory, or disciplinary board. If  
10 the administrative law judge who heard the case originally  
11 is unavailable to take the additional evidence, by reason  
12 of illness or other disability or because he or she is no  
13 longer employed by the Office, the Chief Administrative Law  
14 Judge must assign a different administrative law judge to  
15 take the 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, 2008.

20 (b) No later than July 1, 2008, each agency must provide to  
21 the Chief Administrative Law Judge all relevant information  
22 concerning hearings, number of hearings, personnel used as  
23 hearing officers and support staff, and actual expenditures for  
24 contracted hearing officer services, equipment, and travel.

25 (c) All full-time administrative law judges used

1 principally to preside over administrative hearings conducted  
2 by an agency subject to the provisions of this Act for at least  
3 one year before July 1, 2008 must be administratively  
4 transferred to the Office no later than January 1, 2009.

5 (d) All full-time employees who have principally served as  
6 support staff of those employees transferred under subsection  
7 (c) of this Section must be administratively transferred to the  
8 Office no later than January 1, 2009.

9 (e) All equipment or other tangible property, in possession  
10 of agencies, used or held principally by personnel transferred  
11 under this Section must be transferred to the Office not later  
12 than January 1, 2009, unless the head of the agency and the  
13 Chief Administrative Law Judge determine that the equipment or  
14 property will be more efficiently used by the agency if not  
15 transferred.

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

18 (20 ILCS 415/4c) (from Ch. 127, par. 63b104c)

19 Sec. 4c. General exemptions. The following positions in  
20 State service shall be exempt from jurisdictions A, B, and C,  
21 unless the jurisdictions shall be extended as provided in this  
22 Act:

23 (1) All officers elected by the people.

24 (2) All positions under the Lieutenant Governor,

1 Secretary of State, State Treasurer, State Comptroller,  
2 State Board of Education, Clerk of the Supreme Court,  
3 Attorney General, and State Board of Elections.

4 (3) Judges, and officers and employees of the courts,  
5 and notaries public.

6 (4) All officers and employees of the Illinois General  
7 Assembly, all employees of legislative commissions, all  
8 officers and employees of the Illinois Legislative  
9 Reference Bureau, the Legislative Research Unit, and the  
10 Legislative Printing Unit.

11 (5) All positions in the Illinois National Guard and  
12 Illinois State Guard, paid from federal funds or positions  
13 in the State Military Service filled by enlistment and paid  
14 from State funds.

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

17 (7) Directors of Departments, the Adjutant General,  
18 the Assistant Adjutant General, the Director of the  
19 Illinois Emergency Management Agency, members of boards  
20 and commissions, and all other positions appointed by the  
21 Governor by and with the consent of the Senate.

22 (8) The presidents, other principal administrative  
23 officers, and teaching, research and extension faculties  
24 of Chicago State University, Eastern Illinois University,  
25 Governors State University, Illinois State University,  
26 Northeastern Illinois University, Northern Illinois

1 University, Western Illinois University, the Illinois  
2 Community College Board, Southern Illinois University,  
3 Illinois Board of Higher Education, University of  
4 Illinois, State Universities Civil Service System,  
5 University Retirement System of Illinois, and the  
6 administrative officers and scientific and technical staff  
7 of the Illinois State Museum.

8 (9) All other employees except the presidents, other  
9 principal administrative officers, and teaching, research  
10 and extension faculties of the universities under the  
11 jurisdiction of the Board of Regents and the colleges and  
12 universities under the jurisdiction of the Board of  
13 Governors of State Colleges and Universities, Illinois  
14 Community College Board, Southern Illinois University,  
15 Illinois Board of Higher Education, Board of Governors of  
16 State Colleges and Universities, the Board of Regents,  
17 University of Illinois, State Universities Civil Service  
18 System, University Retirement System of Illinois, so long  
19 as these are subject to the provisions of the State  
20 Universities Civil Service Act.

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

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

25 (12) The technical and engineering staffs of the  
26 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 Highway  
6 Authority.

7 (14) The Secretary of the Illinois Workers'  
8 Compensation Commission.

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

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

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

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

25 (19) Seasonal employees of the Department of  
26 Agriculture for the operation of the Illinois State Fair

1 and the DuQuoin State Fair, no one person receiving more  
2 than 29 days of such employment in any calendar year.

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

7 (21) All hearing officers of the Human Rights  
8 Commission.

9 (22) All employees of the Illinois Mathematics and  
10 Science Academy.

11 (23) All employees of the Kankakee River Valley Area  
12 Airport Authority.

13 (24) The commissioners and employees of the Executive  
14 Ethics Commission.

15 (25) The Executive Inspectors General, including  
16 special Executive Inspectors General, and employees of  
17 each Office of an Executive Inspector General.

18 (26) The commissioners and employees of the  
19 Legislative Ethics Commission.

20 (27) The Legislative Inspector General, including  
21 special Legislative Inspectors General, and employees of  
22 the Office of the Legislative Inspector General.

23 (28) The Auditor General's Inspector General and  
24 employees of the Office of the Auditor General's Inspector  
25 General.

26 (29) All employees of the Office of Administrative

1           Hearings.

2           (Source: P.A. 93-617, eff. 12-9-03; 93-721, eff. 1-1-05;  
3           93-1091, eff. 3-29-05.)

4           Section 99. Effective date. This Act takes effect upon  
5           becoming law.



1

## INDEX

2

## Statutes amended in order of appearance

3 5 ILCS 100/1-5 from Ch. 127, par. 1001-5  
4 5 ILCS 100/1-13 new  
5 5 ILCS 100/1-15 from Ch. 127, par. 1001-15  
6 5 ILCS 100/1-30 from Ch. 127, par. 1001-30  
7 5 ILCS 100/10-3 new  
8 5 ILCS 100/10-5 from Ch. 127, par. 1010-5  
9 5 ILCS 100/10-15 from Ch. 127, par. 1010-15  
10 5 ILCS 100/10-20 from Ch. 127, par. 1010-20  
11 5 ILCS 100/10-25 from Ch. 127, par. 1010-25  
12 5 ILCS 100/10-45 from Ch. 127, par. 1010-45  
13 5 ILCS 100/10-50 from Ch. 127, par. 1010-50  
14 5 ILCS 100/10-60 from Ch. 127, par. 1010-60  
15 5 ILCS 100/10-65 from Ch. 127, par. 1010-65  
16 5 ILCS 100/Art. 12 heading  
17 new  
18 5 ILCS 100/12-5 new  
19 5 ILCS 100/12-10 new  
20 5 ILCS 100/12-15 new  
21 5 ILCS 100/12-20 new  
22 5 ILCS 100/12-25 new  
23 5 ILCS 100/12-30 new  
24 5 ILCS 100/12-35 new  
25 5 ILCS 100/12-40 new

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1 20 ILCS 415/4c

from Ch. 127, par. 63b104c