

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 (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 on 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.

4 (c) A decision by any agency in a contested case under  
5 this Act shall be void unless the proceedings are conducted  
6 in compliance with the provisions of this Act relating to  
7 contested cases, except to the extent those provisions are  
8 waived under Section ~~10-70~~ ~~10-75~~ ~~and except to the extent the~~  
9 ~~agency has adopted its own rules for contested cases as~~  
10 ~~authorized in Section 1-5.~~

11 (Source: P.A. 87-823; revised 2-24-00.)

12 (5 ILCS 100/10-60) (from Ch. 127, par. 1010-60)

13 Sec. 10-60. Ex parte communications.

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

24 (b) However, an agency member may communicate with other  
25 members of the agency, and an agency member or administrative  
26 law judge may have the aid and advice of one or more personal  
27 assistants.

28 (c) An ex parte communication received by any agency  
29 head, agency employee, or administrative law judge shall be  
30 made a part of the record of the pending matter, including  
31 all written communications, all written responses to the  
32 communications, and a memorandum stating the substance of all  
33 oral communications and all responses made and the identity

1 of each person from whom the ex parte communication was  
2 received.

3 (d) Communications regarding matters of procedure and  
4 practice, such as the format of pleadings, number of copies  
5 required, manner of service, scheduling, and status of  
6 proceedings, are not considered ex parte communications under  
7 this Section.

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

9 (5 ILCS 100/10-65) (from Ch. 127, par. 1010-65)  
10 Sec. 10-65. Licenses.

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

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

22 (c) An application for the renewal of a license or a new  
23 license shall include the applicant's social security number.  
24 Each agency shall require the licensee to certify on the  
25 application form, under penalty of perjury, that he or she is  
26 not more than 30 days delinquent in complying with a child  
27 support order. Every application shall state that failure to  
28 so certify shall result in disciplinary action, and that  
29 making a false statement may subject the licensee to contempt  
30 of court. The agency shall notify each applicant or licensee  
31 who acknowledges a delinquency or who, contrary to his or her  
32 certification, is found to be delinquent or who after  
33 receiving notice, fails to comply with a subpoena or warrant



1 relating to a paternity or a child support proceeding, that  
2 the agency intends to take disciplinary action. Accordingly,  
3 the agency shall provide written notice of the facts or  
4 conduct upon which the agency will rely to support its  
5 proposed action and the applicant or licensee shall be given  
6 an opportunity for an administrative a hearing in accordance  
7 with the provisions of the Act concerning contested cases.  
8 Any delinquency in complying with a child support order can  
9 be remedied by arranging for payment of past due and current  
10 support. Any failure to comply with a subpoena or warrant  
11 relating to a paternity or child support proceeding can be  
12 remedied by complying with the subpoena or warrant. Upon a  
13 final finding of delinquency or failure to comply with a  
14 subpoena or warrant, the agency shall suspend, revoke, or  
15 refuse to issue or renew the license. In cases in which the  
16 Department of Public Aid has previously determined that an  
17 applicant or a licensee is more than 30 days delinquent in  
18 the payment of child support and has subsequently certified  
19 the delinquency to the licensing agency, the licensing agency  
20 shall refuse to issue or renew or shall revoke or suspend  
21 that person's license based solely upon the certification of  
22 delinquency made by the Department of Public Aid. Further  
23 process, hearings, or redetermination of the delinquency by  
24 the licensing agency shall not be required. The licensing  
25 agency may issue or renew a license if the licensee has  
26 arranged for payment of past and current child support  
27 obligations in a manner satisfactory to the Department of  
28 Public Aid. The licensing agency may impose conditions,  
29 restrictions, or disciplinary action upon that license.

30 (d) Except as provided in subsection (c), no agency  
31 shall revoke, suspend, annul, withdraw, amend materially, or  
32 refuse to renew any valid license without first giving  
33 written notice to the licensee of the facts or conduct upon  
34 which the agency will rely to support its proposed action and

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

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

17 (Source: P.A. 89-6, eff. 3-6-95; 90-18, eff. 7-1-97.)

18 (5 ILCS 100/Art. 12 heading new)

19 ARTICLE 12. OFFICE OF ADMINISTRATIVE HEARINGS

20 (5 ILCS 100/12-5 new)

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

24 (a) Illinois Labor Relations Boards created under the  
 25 Illinois Public Labor Relations Act;

26 (b) Illinois Educational Labor Relations Board;

27 (c) Illinois Commerce Commission;

28 (d) Illinois Industrial Commission;

29 (e) Civil Service Commission;

30 (f) Pollution Control Board;

31 (g) Illinois State Police Merit Board;

32 (h) Property Tax Appeal Board; and

1       (i) Human Rights Commission.

2           (5 ILCS 100/12-10 new)

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

4       (a) The Office of Administrative Hearings (Office) is  
5 established. The Office is an independent State agency in  
6 the executive branch and is responsible for conducting  
7 administrative hearings in accordance with the legislative  
8 intent expressed by this Act.

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

18       (c) The Chief Administrative Law Judge must maintain his  
19 or her principal office in Springfield and may maintain any  
20 other offices that may be necessary. The Chief  
21 Administrative Law Judge may purchase or lease any equipment  
22 and supplies that may be necessary to carry out his or her  
23 duties and must maintain records and files of the work of the  
24 Office.

25           (5 ILCS 100/12-15 new)

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

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

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

(5 ILCS 100/12-20 new)

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

(5 ILCS 100/12-25 new)

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

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

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

(2) The Chief Administrative Law Judge may employ persons who are not admitted to practice as an attorney

1 to act as administrative law judges if they are  
2 transferred to the Office under subsection (c) of Section  
3 12-40 of this Article. The Chief Administrative Law Judge  
4 may also employ or contract with persons not admitted to  
5 practice law if those persons have the requisite  
6 knowledge of administrative law and procedure and the  
7 specialized subject-matter expertise to act as  
8 administrative law judges in highly technical cases.

9 (b) Employees of the Office are not subject to the  
10 Personnel Code. The Chief Administrative Law Judge must  
11 establish hiring procedures based upon merit and fitness and  
12 may discipline and terminate employees based only upon good  
13 cause. The Chief Administrative Law Judge must fix salaries  
14 of Office employees and adopt personnel rules establishing a  
15 general salary schedule according to a classification of  
16 employees, subject to merit increases, that applies to all  
17 employees. The Chief Administrative Law Judge must adopt a  
18 code of conduct and rules concerning the hiring, discipline,  
19 and termination of employees.

20 (c) The Chief Administrative Law Judge must assign an  
21 administrative law judge for any proceeding that is required  
22 by this Article to be conducted by the Office and for any  
23 proceeding for which the Office has agreed to furnish an  
24 administrative law judge as provided in subsection (d). Any  
25 administrative law judge so assigned does not become an  
26 employee of the agency during the assignment and is not  
27 subject to the direction or the supervision of the agency to  
28 whose proceeding the administrative law judge has been  
29 assigned.

30 (d) The Office may enter into an interagency agreement  
31 with any agency to furnish administrative law judges to  
32 conduct administrative hearings not otherwise required to be  
33 conducted by the Office. The Office may also enter into an  
34 agreement with a unit of local government or school district

1 to furnish administrative law judges to conduct  
2 administrative hearings.

3 (e) In assigning administrative law judges, the Chief  
4 Administrative Law Judge must, when possible, use personnel  
5 having experience in the field or subject matter of the  
6 hearing and assign administrative law judges primarily to the  
7 hearings of particular agencies on a long-term basis. The  
8 Chief Administrative Law Judge may act as an administrative  
9 law judge in a particular case.

10 (f) The Office may adopt rules as necessary to carry out  
11 its powers and duties under this Act. The rules must  
12 include, but are not limited to, the procedures for  
13 requesting the assignment of administrative law judges. No  
14 agency, however, may select any individual administrative law  
15 judge for any proceeding or reject any individual  
16 administrative law judge, except in accordance with the  
17 provisions of this Article regarding disqualifications.

18 (g) The Office must develop and institute a program of  
19 continuing education and training for administrative law  
20 judges and may permit administrative law judges and hearing  
21 examiners employed by other agencies to participate in its  
22 program. The Office may develop and institute other  
23 educational programs in the area of administrative law and  
24 procedure for the benefit of State employees and those who  
25 participate in administrative hearings.

26 (h) The Office must:

27 (1) annually collect information on administrative  
28 law and procedure in Illinois and must study  
29 administrative law and procedure for the purpose of  
30 improving the fairness, efficiency, and uniformity of  
31 administrative adjudicatory proceedings in Illinois;

32 (2) monitor the quality and cost of State  
33 administrative hearings; and

34 (3) annually report its findings and

1 recommendations to the Governor and to the General  
2 Assembly no later than March 15 of each year.

3 (5 ILCS 100/12-30 new)

4 Sec. 12-30. Proceedings. Beginning on January 1, 2003,  
5 an administrative law judge of the Office shall preside over  
6 any administrative hearing of any agency subject to this  
7 Article, except that an administrative hearing in a contested  
8 case commenced before January 1, 2003 and pending before an  
9 administrative law judge not transferred to the Office of  
10 Administrative Hearings by operation of Section 12-40 of this  
11 Article shall not be heard by an administrative law judge of  
12 the Office without the agreement of the parties.

13 (5 ILCS 100/12-35 new)

14 Sec. 12-35. Administrative Hearing Procedures.

15 (a) Time and place of hearing. The Office must consult  
16 the agency and determine the place and the time of  
17 commencement of the administrative hearing.

18 (b) Powers of administrative law judge. The  
19 administrative law judge presides at the administrative  
20 hearing and may:

21 (1) administer oaths and affirmations;

22 (2) rule on offers of proof and receive relevant  
23 evidence;

24 (3) regulate the schedule and the course of the  
25 hearing;

26 (4) dispose of procedural requests or similar  
27 matters;

28 (5) sign and issue subpoenas in the name of the  
29 agency requiring attendance and giving of testimony by  
30 witnesses and the production of books, papers, and other  
31 documentary evidence;

32 (6) exercise any other powers relating to the

1 conduct of the administrative hearing that are lawfully  
2 delegated to him or her by the agency or by the  
3 examining, advisory, or disciplinary board. Whenever,  
4 after an agency head or an examining, advisory, or  
5 disciplinary board has commenced hearing a case with an  
6 administrative law judge presiding, a quorum no longer  
7 exists, the administrative law judge who is presiding must  
8 complete the hearing as if sitting alone and must render  
9 a proposed decision in accordance with subsection (e) of  
10 this Section; and

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

13 (c) Disqualifications.

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

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

29 (3) The administrative law judge whose  
30 disqualification is requested must determine whether to  
31 grant the petition, stating facts and reasons for the  
32 determination.

33 (4) If an administrative law judge becomes  
34 unavailable as a result of recusal or any other reasons,



1 the Chief Administrative Law Judge must assign another  
2 administrative law judge to preside at the administrative  
3 hearing.

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

20 (e) Proposed decisions. When a majority of the members  
21 of an agency or of an examining, advisory, or disciplinary  
22 board has not heard a case with the administrative law judge,  
23 any proposed decision prepared by an administrative law judge  
24 of the Office is subject to this subsection (e) and Section  
25 10-45 of this Act.

26 (1) When an administrative law judge hears a case  
27 alone, he or she must prepare a proposed decision in a  
28 form that may be adopted as the decision in the case.  
29 The administrative law judge must submit the proposed  
30 decision to the agency or, in the case of proceedings  
31 that an examining, advisory, or disciplinary board is  
32 authorized by an Act to hear and make a recommended  
33 decision, to the examining, advisory, or disciplinary  
34 board.

1           (2) When an administrative law judge hears a case  
2 with an agency head or with an examining, advisory, or  
3 disciplinary board, the administrative law judge must be  
4 present during the consideration of the case and must, if  
5 requested by the agency or by the board, prepare a  
6 proposed decision and submit it to the agency or board.

7           (3) In reviewing a proposed decision submitted by  
8 an administrative law judge of the Office, an agency head  
9 or an examining, advisory, or disciplinary board is not  
10 bound by the proposed decision and may adopt all, some,  
11 or none of the proposed decision as its recommended  
12 decision. If the agency head or examining, advisory, or  
13 disciplinary board does not adopt the proposed decision  
14 in its entirety, it must either (i) recommend a decision  
15 in the case based upon the record, including transcript,  
16 or (ii) remand the case to the same administrative law  
17 judge to take additional evidence.

18           (4) If a case has been remanded to an  
19 administrative law judge to take additional evidence or  
20 to include more detailed findings of fact or conclusions  
21 of law, the administrative law judge must prepare a  
22 proposed decision upon the additional evidence and upon  
23 the transcript and other papers that are part of the  
24 record of the prior hearing and must submit the proposed  
25 decision to the agency or to the examining, advisory, or  
26 disciplinary board. If the administrative law judge who  
27 heard the case originally is unavailable to take the  
28 additional evidence, by reason of illness or other  
29 disability or because he or she is no longer employed by  
30 the Office, the Chief Administrative Law Judge must  
31 assign a different administrative law judge to take the  
32 additional evidence.

33           (5 ILCS 100/12-40 new)

1       Sec. 12-40. Transition.

2       (a) The Governor must appoint a Chief Administrative Law  
3 Judge to take office on July 1, 2002.

4       (b) No later than July 1, 2002, each agency must provide  
5 to the Chief Administrative Law Judge all relevant  
6 information concerning hearings, number of hearings,  
7 personnel used as hearing officers and support staff, and  
8 actual expenditures for contracted hearing officer services,  
9 equipment, and travel.

10       (c) All full-time administrative law judges used  
11 principally to preside over administrative hearings conducted  
12 by an agency subject to the provisions of this Act for at  
13 least one year before July 1, 2002 must be administratively  
14 transferred to the Office no later than January 1, 2003.

15       (d) All full-time employees who have principally served  
16 as support staff of those employees transferred under  
17 subsection (c) of this Section must be administratively  
18 transferred to the Office no later than January 1, 2003.

19       (e) All equipment or other tangible property, in  
20 possession of agencies, used or held principally by personnel  
21 transferred under this Section must be transferred to the  
22 Office not later than January 1, 2003, unless the head of the  
23 agency and the Chief Administrative Law Judge determine that  
24 the equipment or property will be more efficiently used by  
25 the agency if not transferred.

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

28       (20 ILCS 415/4c) (from Ch. 127, par. 63b104c)

29       Sec. 4c. General exemptions. The following positions in  
30 State service shall be exempt from jurisdictions A, B, and C,  
31 unless the jurisdictions shall be extended as provided in  
32 this Act:

1           (1) All officers elected by the people.

2           (2) All positions under the Lieutenant Governor,  
3 Secretary of State, State Treasurer, State Comptroller,  
4 State Board of Education, Clerk of the Supreme Court, and  
5 Attorney General.

6           (3) Judges, and officers and employees of the  
7 courts, and notaries public.

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

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

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

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

24           (8) The presidents, other principal administrative  
25 officers, and teaching, research and extension faculties  
26 of Chicago State University, Eastern Illinois University,  
27 Governors State University, Illinois State University,  
28 Northeastern Illinois University, Northern Illinois  
29 University, Western Illinois University, the Illinois  
30 Community College Board, Southern Illinois University,  
31 Illinois Board of Higher Education, University of  
32 Illinois, State Universities Civil Service System,  
33 University Retirement System of Illinois, and the  
34 administrative officers and scientific and technical

1 staff of the Illinois State Museum.

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

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

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

19 (12) The technical and engineering staffs of the  
20 Department of Transportation, the Department of Nuclear  
21 Safety and the Illinois Commerce Commission, and the  
22 technical and engineering staff providing architectural  
23 and engineering services in the Department of Central  
24 Management Services.

25 (13) All employees of the Illinois State Toll  
26 Highway Commission.

27 (14) The Secretary of the Industrial Commission.

28 (15) All persons who are appointed or employed by  
29 the Director of Insurance under authority of Section 202  
30 of the Illinois Insurance Code to assist the Director of  
31 Insurance in discharging his responsibilities relating to  
32 the rehabilitation, liquidation, conservation, and  
33 dissolution of companies that are subject to the  
34 jurisdiction of the Illinois Insurance Code.

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

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

5           (18) Employees of the Illinois Young Adult  
6 Conservation Corps program, administered by the Illinois  
7 Department of Natural Resources, authorized grantee under  
8 Title VIII of the Comprehensive Employment and Training  
9 Act of 1973, 29 USC 993.

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

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

19          (21) All hearing officers of the Human Rights  
20 Commission.

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

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

25          (24) All employees of the Office of Administrative  
26 Hearings.

27 (Source: P.A. 89-4, eff. 1-1-96; 89-445, eff. 2-7-96; 90-490,  
28 eff. 8-17-97.)

29          Section 99. Effective date. This Act takes effect upon  
30 becoming law.

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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  
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