

**ILLINOIS COMMISSION ON
ENVIRONMENTAL JUSTICE**

GOVERNOR'S REPORT

2016

TABLE OF CONTENTS

1. Commission Members

2. Administration

- 2.1 Open Meetings Act
- 2.2 Ethics Training
- 2.3 Commission Vacancies
- 2.4 Environmental Justice Commission Legislation
- 2.5 Quarterly Meetings

3. Subcommittees

- 3.1 Subcommittee Structure
- 3.2 Agency Involvement and Oversight
- 3.3 Brownfields Redevelopment
- 3.4 Clean Power Plan

4. Attachments

- 4.1 Open Meetings Act Fact Sheet
- 4.2 Commission on Environmental Justice Fact Sheet

Commission Members

Name	Appointed By	Position
Agency Director	Statute	Ex-Officio, Director, Environmental Protection Agency
Agency Secretary	Statute	Ex-Officio, Acting Secretary, Department of Transportation
Millard Driskell	Governor	Member, public
Senator Dan Duffy	Senate Minority Leader	Member
Representative Mike Fortner	House Minority Leader	Member
Keith Harley	Governor	Member, affected communities concerned with environmental justice
Agency Director	Statute	Ex-Officio, Director, Department of Public Health
Agency Director	Statute	Ex-Officio, Director, Department on Aging
Cheryl Johnson	Governor	Member, affected communities concerned with environmental justice
Veronica Kyle	Governor	Member, environmental organizations
VACANT	Governor	Member, public
Brenda Carter	Governor	Member, business organization
VACANT	Governor	Member, local government
Agency Director	Statute	Ex-Officio, Director, Department of Natural Resources
Agency Director	Statute	Ex-Officio, Director, Department of Commerce and Economic Opportunity
Senator Toi Hutchinson	Senate President	Member
VACANT	Governor	Member, environmental organization
Sylvia Washington	Governor	Member, experts on environmental health and environmental justice
Kimberly Wasserman	Governor	Chair, affected communities concerned with environmental justice
Representative Chris Welch	Speaker of the House	Member

Administration

2.1 Open Meetings Act

As a public body, the Illinois Commission on Environmental Justice (hereinafter referred to as “the Commission”) is required to comply with the Open Meetings Act [5 ILCS 120]. The Open Meetings Act reflects the General Assembly's determination that the public has a right to advance notice of, and to attend, all meetings at which any public body is discussed or acted upon in any way [5 ILC 120/1]. Any subcommittee of the Commission is also subject to the Open Meetings Act and therefore must hold meetings with proper notice that are open to the public. All Commission meetings from August 2013 to October 2016 have been in compliance with the Open Meetings Act. Members of the Commission have completed their required Open Meetings Act training.

2.2 Ethics Training

Commissioners fall under the jurisdiction of the Office of Executive Inspector General and are considered "state employees" for the purposes of the State Officials and Employees Ethics Act. Commissioners are required to annually complete an appropriate ethics training course. Members of the Commission have completed their required annual ethics training.

2.3 Commission Vacancies

There are currently three vacancies on the Commission. One vacancy is for a Commission member from an environmental organization, one position is for a member of local government and the other for a member of the public. The Commission is currently seeking suitable candidates.

2.4 EJ Commission Legislation (SB 2920)

P.A. 99-541/SB 2920. *Signed into law July 8, 2016; effective January 1, 2017.* Adds four new voting members to the Environmental Justice Commission while eliminating one thereby bringing the total number of Commission members to 24. Replaces the Director of the Department on Aging with a representative of the housing office of the Department of Human Services (DHS). Specifically, adds members (all to be appointed by the Governor) representing a statewide organization representing manufacturers, an organization representing the energy sector, a statewide labor federation representing more than one international union, and an organization representing workers in the energy sector.

2.5 Quarterly Meetings

The Commission continues to meet once each quarter. The standard format for the meeting is videoconference locations in Springfield and Chicago. Commission members and guests that are unable to attend the videoconference locations are provided with the opportunity to participate via teleconference. The meeting notices, meeting agendas and meeting minutes are posted on the

Illinois EPA's Environmental Justice website. The Environmental Justice website can be found at: <http://www.epa.illinois.gov/topics/environmental-justice/commission/index>.

Below are the 2016 meeting dates and locations are:

- 1st Quarter – February 3, 2016, videoconference and teleconference
- 2nd Quarter – No meeting
- 3rd Quarter – No meeting
- 4th Quarter – November 16, 2016, videoconference with teleconference

Subcommittees

3.1 Subcommittee Structure

Participation on a subcommittee is voluntary. Commissioners are not required to join any of the subcommittees within the Commission. The primary purpose of the subcommittees is to research issues that the Commission decides to prioritize. The subcommittees present their findings to the Commission for input. All Commissioners vote on any final actions. Subcommittees must consist of at least one-third of Commission members and a majority (half plus one) must be present to constitute a quorum.

3.2 Agency Involvement and Oversight

The Agency Involvement and Oversight Subcommittee was created to address how State of Illinois government agencies can incorporate environmental justice goals into their programs and policies. As a baseline, the Agency Involvement and Oversight Subcommittee sought to determine what environmental justice practices were already in place at State of Illinois government agencies that serve on the Commission.

3.3 Brownfields Redevelopment

The Brownfields Redevelopment Subcommittee was created to address concerns related to brownfield remediation in Illinois environmental justice communities. Cheryl Johnson, Executive Director of People for Community Recovery, and Dr. Sylvia Washington are co-chairs for this subcommittee.

The Brownfields Redevelopment Subcommittee has focused on three priority areas: public participation policies, resources for community initiated brownfields redevelopment, and an Illinois Brownfields Education web portal.

3.4 Clean Power Plan

The Clean Power Plan Subcommittee was created to address and develop strategies related to President Obama's Clean Power Plan. The subcommittee works closely with the Illinois EPA on the development of the Environmental Justice requirement of the Clean Power Plan.

Attachments

4.1 Open Meetings Act Fact Sheet

Introduction

This fact sheet includes a discussion of the procedures by which the Commission on Environment Justice (“the Commission”) must abide in order to comply with the Open Meetings Act [5 ILCS 120], and the potential ramifications of failure to abide by those procedures.

Meetings Subject to the Open Meetings Act

The Open Meetings Act reflects the General Assembly’s determination that the public has a right to advance notice of, and to attend, all meetings at which any business of a public body is discussed or acted upon in any way. 5 ILCS 120/1. As a public body, the Commission is subject to the Open Meetings Act. 5 ILCS 120/1.02. Any subcommittee of the Commission is also subject to the Open Meetings Act. Id. Thus, the Commission and its subcommittees must hold meetings that are properly noticed and open to the public.¹

In general, Commission meetings must be open to the public. 5 ILCS 120/2(a). The Open Meetings Act defines a meeting as a “gathering, whether in person or by video or audio conference, telephone call or electronic means. . . or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business...” 5 ILCS 120/1.02. The Commission has determined that one-third of its membership constitutes a quorum. Therefore, Commission members should avoid discussing Commission matters at any gathering of more than three members unless that gathering complies with the Open Meetings Act.

Meeting Notices

- **Regular Meetings.** Regular meetings would include the Commission’s regularly scheduled quarterly meetings mandated by the Environmental Justice Act. At the beginning of each calendar year or fiscal year, the Commission must post a notice of its regular meetings at the location(s) where the meetings will be held. 5 ILCS 120/2.02(a), 2.03. The notice must include the regular dates, times, and locations of the meetings. 5 ILCS 120/2.02(a). In addition, at least 48 hours before each meeting the Commission must post at the meeting location(s) an agenda that is continuously available for public viewing until the conclusion of the meeting.² 5 ILCS 120/2.02(a), (c). The agenda must

¹ For the purposes of this Fact Sheet, “Commission” refers to the Commission or any subcommittee of the Commission. For actions by a subcommittee, the Open Meetings Act requirements apply to the subcommittee rather than the Commission as a whole.

² A meeting, or an action taken at a meeting, is not invalidated if an agenda is not continuously available for the full 48-hour period due to action outside the control of the Commission (e.g., the building in which the agenda is posted is not open to the public during non-business hours).

set forth the general subject matter of any resolution that will be the subject of final action at the meeting.³ 5 ILCS 120/2.02(a).

If a regular meeting is rescheduled, a notice of the change must be published in a newspaper of general circulation at least ten days before the originally scheduled meeting date. 5 ILCS 120/2.03. A notice and agenda must then be posted at least 48 hours before the rescheduled meeting at the location(s) of the rescheduled meeting. Id.

- **Special Meetings.** A “special meeting” is a meeting other than a regular meeting or a meeting held in the event of a bonafide emergency. See 5 ILCS 120/2.02(a). The Commission must post a notice and agenda for a special meeting at the meeting location(s) at least 48 hours before the meeting. 5 ILCS 120/2.02(a)-(b). Id. The agenda must contain the same information as required for regular meetings. See 5 ILCS 120/2.02(c).
- **Emergency Meetings.** For a meeting held in the event of a bonafide emergency, the Commission must provide notice of the meeting to any news medium that has filed an annual request for notice of Commission meetings (see below). 5 ILCS 120/2.02(c). The emergency notice must be given to the news medium as soon as practicable, and prior to, the emergency meeting. Id.

If the Commission adjourns a meeting and reconvenes it at a later time, a meeting notice and agenda must be posted at least 48 hours before the meeting reconvenes unless the original meeting was open to the public and (i) it is reconvened within 24 hours or (ii) the time and place of the reconvened meeting was announced in the original meeting and there is no change in the agenda. 5 ILCS 12/2.02(a).

If a news medium files an annual request for notice of Commission meetings, the Commission must provide the news medium with copies of notices of its regular meetings and other meetings. 5 ILCS 120/2.02(b). If the news medium provides the Commission with an address or telephone number in Illinois for receipt of the notices, the Commission must give the news medium notice of special, emergency, rescheduled, and reconvened meetings in the same manner as is given to members of the Commission. Id.

Conduct of Commission Meetings - Location, Attendance, and Minutes

The Commission must hold meetings at the time specified in the relevant notice, and at a place that is convenient and open to the public. 5 ILCS 120/2.01. This means that meetings must be held in a location that is large enough to accommodate the attendees, and is not otherwise ill-suited or unadvantageous for the purposes of the meeting. In other words, all meetings should be held in a public building that is capable of housing the number of anticipated attendees.

³ This requirement does not preclude the consideration of items not specifically set forth in the agenda. 5 ILCS 120/2.02(a).

A quorum of members⁴ must be physically present for the Commission to hold a meeting. Id. In general, a quorum must be physically present at a single location. However, the Commission may hold meetings via video conference at one or more buildings owned or leased by a public body. Id. If the Commission holds a meeting via video conference, a quorum must be physically present between the various locations at which video conferencing is available. In order to hold a meeting via video conference, the Commission must post public notice at, and provide public access to, all locations at which video conferencing is available.

The Commission must keep written minutes of all meetings. 5 ILCS 120/2.06(a). The minutes must include, at a minimum: the date, time, and place of the meeting; the members present; the members absent; a summary of discussion on all matters proposed, deliberated, or decided; and a record of any votes taken. Id. The minutes of any open meeting must be approved within 30 days after the meeting, or at the second subsequent regular meeting, whichever is later. 5 ILCS 120/2.06(b). In light of the Commission's quarterly meeting schedule, meeting minutes should be approved within one of the next two quarterly meetings. The minutes must be made available for public inspection within 10 days approval. Id.

Closed Meetings

Certain meetings, or portions of meetings, can be closed to the public "in those limited circumstances where the General Assembly has specifically determined that the public interest would be clearly endangered or the personal privacy or guaranteed rights of individuals would be clearly in danger of unwarranted invasion." 5 ILCS 120/1. To that end, there are 29 exceptions to the requirement that meetings must be open to the public. 5 ILCS 120/2(c). The only exceptions that appear applicable to the Commission would be meetings at which: (1) pending, probable, or imminent litigation involving or affecting the Commission is discussed; (2) self-evaluation, practices and procedures, or professional ethics are discussed; (3) the minutes of meetings that were lawfully closed are discussed; or (4) discussions with internal or external auditors regarding internal control weakness or identification of potential fraud risk take place. 5 ILCS 120/2(c)(11), (16), (21), and (29). Although the Commission may discuss these matters in a closed meeting, these matters may also be discussed during an open meeting. 5 ILCS 120/2(b).

In order to close a meeting, a majority of the meeting attendees must vote in favor of closure. 5 ILCS 120/2a. The minutes of the open meeting at which the vote occurred must reflect the basis for closing the meeting and the vote of each member. Id. The Commission may approve closing a series of meetings if each meeting in that series involves the same particular matters and is scheduled to occur within three months of the vote. Id.

The Commission must maintain verbatim audio or video recordings of all closed meetings. 5 ILCS 120/2.06(a). The Commission must also review minutes of all closed meetings at least semi-annually to determine whether the need for confidentiality still exists for all or part of those minutes. 5 ILCS 120/2.06(d). The Commission must report this determination during its open session. Id. Once the Commission determines that the minutes from a closed session no longer require confidential treatment, those minutes must be made available to the public. 5 ILCS 120/2.06(f). The Commission may destroy the verbatim recordings of a closed meeting no less

⁴ One-third of the Commission's members, or at least seven.

than 18 months after the meeting if it approves destruction of the particular recording and minutes of the closed meeting that include (i) the date, time, and place of the meeting, (ii) whether the members were present or absent, (iii) a summary of discussion on all matters proposed, deliberated, or decided, and (iv) a record of all votes taken. 5 ILCS 120/2.06(c).

Ramifications of Failure to Comply with the Open Meetings Act

Failure to comply with the requirements of the Open Meetings Act has potentially serious consequences. Violation of the Open Meetings Act is a Class C misdemeanor and is punishable by up to 30 days imprisonment and a fine of up to \$1,500. 5 ILCS 120/4; 730 ILCS 5/5-4.5-6.5(b), (e). In addition, violation of the Open Meetings Act can result in requiring a meeting be open to the public, requiring the Commission to make available to the public certain portions of meeting minutes, or declaring null and void any final action taken during at a closed meeting. 5 ILCS 120/3.

4.2 Commission on Environmental Justice Fact Sheet

Introduction

This fact sheet outlines the brief history of the Commission on Environmental Justice (“the Commission”), the Commission’s composition, and the Commission’s duties.

Background

In 2011, the General Assembly passed the Illinois Environmental Justice Act, 415 ILCS 155 *et seq.*, which, among other things, created the Commission. The Environmental Justice Act included the legislative finding that “no segment of the population, regardless of race, national origin, age, or income, should bear disproportionately high or adverse effects of environmental pollution.” In light of that finding, the Commission is charged with advising State entities and the Governor on environmental justice issues. The Illinois Environmental Protection Agency is required to provide administrative and “other support” to the Commission. 415 ILCS 155/10(f).

Commission Membership

The Commission is comprised of twenty voting members, who represent various State agencies and the public. The Governor designates a Chairperson from the Commission’s members. Two members are State Senators: one appointed by the President of the Senate and the other appointed by the Minority Leader of the Senate. Two members are State Representatives: one appointed by the Speaker of the House of Representatives and the other by the Minority Leader of the House of Representatives. These members serve at the pleasure of the appointing officers.

The Governor appoints ten members of the public to the Commission. These members must represent at least one of the following interests: (1) affected communities concerned with environmental justice; (2) business organizations; (3) environmental organizations; (4) experts on environmental health and environmental justice; (5) units of local government; and (6) members of the general public who have an interest or expertise in environmental justice. 415 ILCS 155(a)(4). These appointments are not subject to Senate confirmation and serve a term of two years following appointment. Five members are subject to reappointment each year.

In addition, the Environmental Justice Act established six *ex officio* Commission members: the Director of Aging, the Director of Commerce and Economic Opportunity, the Director of the Environmental Protection Agency, the Director of Natural Resources, the Director of Public Health, and the Director of Transportation. Each Director may designate someone to serve on the Commission in his or her stead. These members serve for the duration of their Directorship or, in the case of a designee, at the pleasure of the relevant Director.

Commission Duties

The Commission has three primary functions: evaluating issues relating to environmental justice issues, meeting to discuss environmental justice issues, and reporting its findings and recommendations to the Governor and General Assembly. The Environmental Justice Act directs

the Commission to evaluate environmental justice issues in the following contexts: (1) advising State entities on environmental justice and related community issues; (2) reviewing and analyzing the impact of current State laws and policies on environmental justice issues; (3) assessing the adequacy of State and local laws to address environmental justice issues; (4) developing criteria to assess whether communities in the State may be experiencing environmental justice issues; and (5) recommending options to the Governor for addressing environmental justice issues that surface after reviewing State laws and policies, including prioritizing areas of the State that need immediate attention. In order to evaluate these issues, the Commission is required to meet at least quarterly at the call of the Chairperson. In addition, the Commission must report its findings and recommendations to the Governor and General Assembly on or before October 1 of each year.