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Life after Civil Service Reform: The Texas, Georgia, and Florida Experiences

H u m a n C a p i t a l S e r i e s



Jonathan Walters
Governing Magazine

IBM Endowment for
**The Business
of Government**

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F O R E W O R D

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On behalf of the IBM Endowment for The Business of Government, we are pleased to present this report by Jonathan Walters, “Life after Civil Service Reform: The Texas, Georgia, and Florida Experiences.”

This report comes at a time when reform of the civil service in the federal government has become a major national issue. As of this writing, the United States Senate is considering the creation of the Department of Homeland Security. A major issue now being debated is the amount of managerial flexibility to be given to the new department in the area of hiring, firing, promoting, moving, and retaining federal civil servants. According to Steve Barr of the *Washington Post*, “The homeland security bill is being watched not only for its direct effect on the employees who would be moved in, but also for any precedents it might set for the rest of the government.”

In this informative report, Jonathan Walters, a staff correspondent for *Governing* magazine, describes the experience of three states—Texas, Georgia, and Florida—that dramatically reformed their civil service systems. All three states changed the way in which they recruit, hire, promote, classify, and compensate state employees. While it is too early to fully assess the Florida experience (the changes were enacted in 2001), Walters reports that, for the most part, civil servants and human resource executives in the three states are pleased with the reforms. Walters writes, “Ask personnel officials or hiring authorities in Texas, Georgia, or Florida how they like their style of personnel management, and you’ll hear how relieved they are *not* to have to suffer the dictates of a highly structured, centralized, rule-driven system.”

We trust that this report will be enlightening and useful to executives in the federal government and in state governments across the nation as they all continue to assess the future of civil service and consider reform. While the reforms in Texas, Georgia, and Florida may not be totally transferable to other states and to the federal government, their experience should certainly inform the current and future debate over civil service reform.

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EXECUTIVE SUMMARY

Since its introduction into public administration in the United States in 1883, civil service has stood as a bulwark in defense of guaranteeing “fitness” and “fairness” in government personnel administration. Created to guard against patronage hiring and firing and to insulate public employees from the potential political consequences of their work, some form of civil service or “merit system” has at some point been adopted by all 50 states.

In recent decades, however, criticism of civil service has grown louder. Civil service, argue critics, has become less of a bulwark and more of a wall—a wall that gets in the way of modern, efficient personnel management. Rather than serving as a system to help governments find, hire, and retain high-performing employees, critics charge that civil service has devolved into a morass of out-of-date rules and regulations that now actually serve to thwart attempts to attract and keep top job prospects. Convolved systems for testing, classifying, compensating, and disciplining employees tie management’s hands. Meanwhile, detailed job descriptions and an emphasis on job seniority make general personnel administration difficult and serve to reward longevity over performance.

As the debate over how to fix civil service has played out nationally, states have mostly adopted an incremental approach to change. In particular, states have adopted strategies for streamlining testing, simplifying job classifications, and building more flexibility into compensation systems. They have proceeded with such reforms sometimes in cooperation with organized labor, but more often in the face of opposition, or at least deep skepticism.

There are those who regard such “tinkering,” though, as insufficient. Such well-known observers of public management as David Osborne, co-author of *Reinventing Government*, have argued for years that civil service has long since outlived its currency or usefulness. Indeed, there are plenty of people inside and outside of government who sincerely believe that nothing short of outright abolition will improve civil service.

But eliminating civil service has always been a daunting prospect for states for a variety of reasons, ranging from well-organized political opposition to fears about rekindling the bad old days of rampant patronage. Despite such fears, three states have, for all intents and purposes, eliminated civil service. Texas and Georgia did it in fact (and in statute); Florida has done it in practice (through statute).

While Florida’s foray into a world substantially free of civil service is relatively new, it is still possible to look at the three states and draw some general conclusions about what happens when states take the no-civil-service plunge:

- Length of time it takes to complete key personnel transactions—from hiring to firing, promotion to re-assignment—decreases significantly; satisfaction levels with personnel administration generally increase.
- Patronage hiring appears to proceed along typical levels; there is no unusual spike in political hiring or firing.
- With greatly reduced protections for employees, the prospects for sweeping out longtime,

high-salary employees does increase, which has the potential to impact morale and interest in public service generally, and which may also contribute to organizational “brain drain.”

- Personnel administrators in the field (in agencies) take on a significantly greater burden when it comes to the smooth, legal, and efficient administration of their personnel systems.
- Personnel administrators in the field may come under new pressure from agency managers to accommodate specific (non-patronage) hiring and compensation requests.
- Some form of central monitoring or “quality control” seems to be key to the establishment of some coherence in state personnel practice and to the ability to do statewide strategic workforce planning.

It seems unlikely that a parade of states is going to follow the lead of Texas, Georgia, and Florida and essentially abolish merit protection for state employees. Yet the current evidence around the impact of such sweeping change will no doubt be tantalizing to state officials who have long chafed under what they view as long-outdated—even archaic—personnel rules and regulations. Moreover, at a time when competition for quality employees is on the rise and state governments are facing a potentially significant wave of retirements, evidence of the benefits of substantial rollbacks in civil service might prove quite tempting.

Introduction:

The “Tyranny” of Civil Service*

For the uninitiated, no topic around public administration is considered more baffling—or stultifying—than civil service, that Byzantine set of rules and regulations that have accreted over time to govern personnel management in states. To critics, civil service is considered an arcane world of complex and convoluted rules that have long since outlived their usefulness when it comes to the demands of modern personnel management.

It is that critique of civil service that has caused its visibility as an issue of debate to slowly but surely rise. For an example of how high its visibility has been raised and the currency of the debate, one need look no further than the current legislative debate over creation of the new federal Office of Homeland Security. A major sticking point in that debate is whether employees of the new agency will be covered by civil service or whether they will serve “at will.”

In their landmark 1992 book *Reinventing Government*, David Osborne and Ted Gaebler flatly state that “[t]he only thing more destructive than a line item budget system is a personnel system built around civil service.” They’re not alone in their sentiment. When asked back in 1989 what might be done to improve the infamously complex New York State civil service system, Walter Broadnax, its director at the time, served up the simplest of prescriptions: “Blow it up.” In spite of such criticism—and such concisely configured strategies for curing

its ills—civil service systems nationwide have shown remarkable resilience.

The twin and fundamental rationales for civil service have always been straightforward enough: to ensure “fairness” in hiring and other personnel actions and “fitness” among those hired. Civil service systems were adopted to ensure that everyone interested in working for government had an equal shot, regardless of their political (or family) affiliation, associations, or interests, and that those hired were qualified to do the job. Civil service was also meant to protect existing public employees from shifts in political administrations, and to ensure that such personnel actions as promotions, pay raises, and layoffs were executed based on an individual’s skills and abilities, and not on “favoritism,” whether such favoritism was based on management whim or political connections.

Civil service was introduced to U.S. public management in 1883. As every faithful student of public administration history has been taught, the precipitating event behind the nation’s first civil service system was the assassination of President James Garfield by that infamous “disappointed [not to mention mentally unhinged] office seeker,” Charles Giteau. The reality is a bit more complicated, notes J. Edward Kellough, who teaches public administration at the University of Georgia. With Republicans facing the prospect of losing control of Congress in the 1882 mid-term elections, they backed

* The author would like to thank Bob Lavigna, James S. Bowman, Hal C. Rainey, and J. Edward Kellough for reviewing initial drafts of this report and for their much-appreciated insights and comments on its contents.

Democratic efforts at personnel reform. The Republican calculation was pure politics: If *they* weren't going to be around to take advantage of patronage after the mid-terms, then why not back a new civil service system that would not only protect existing Republican appointments, but also throttle the patronage powers of incoming Democrats.

States quickly began to follow suit. New York and Massachusetts were the first, each passing civil service laws in 1884. Since then, every state in the country has passed some form of merit system, frequently embedding their statutes in state constitutional law, which is one of the reasons enemies of civil service have had such a hard time getting rid of it in some places.

The Staying Power of Civil Service

There are two other basic and related reasons for civil service's resilience, both more or less political. The first involves its complexity. Few politicians are willing to become adept enough students of civil service to become informed critics—and, therefore, effective reformers. The second involves the potential political rewards for pushing civil service reform: There aren't many. When political pollsters go out to ask citizens what their major concerns of the day are, none has ever come back to report that the public would rather see legislators tackle public sector personnel reform than try to rein in corrupt corporate CEOs or figure out how to make prescription drugs more affordable. And no politician ever won an election on the catchy tag line of "It's about bumping, stupid." In fact, those politicians who do wander in the direction of pushing civil service reform frequently find an entrenched and powerful set of interests arrayed against them in the form of public employee unions and associations, veterans' groups, and so forth. And so as a political matter, it's often much simpler just to leave civil service where it is.

But proponents of change argue that there's never been a more critical time in public administration history than now to tackle it. While advances in information technology have certainly shaped and changed how government does certain jobs, the fact remains that people are still the most important component of government—how it functions and

what it delivers—whether those people are clerks at the state department of motor vehicles or forensic scientists at the state police lab. As any hard-nosed businessperson will argue, the quality of service any enterprise delivers is directly dependent on that organization's "most precious asset": its employees. And so it's no stretch to assert that the quality of government service will always directly depend on the quality of the systems government uses to find and acquire that most precious asset. For that same reason, some argue that there is *no more important* administrative function of government than personnel management.

Adding to the urgency for creating personnel systems that work, argue reform advocates, are statistics suggesting that both state and local governments are looking at massive retirements of employees over the next 15 years. According to a recent analysis of the public sector workforce by Craig W. Abbey and Don Boyd of the Rockefeller Institute of Government:

- Nearly half of all government workers (local, state, and federal) are 45 years old or older (as compared with just over 31 percent for the private sector).
- From 1994 to 2001, the percentage of older workers in the government workforce increased more than the percentage for the private sector.
- Nationally, 50 percent of government jobs are in occupations requiring specialized training, education, and job skills, compared to just 29 percent in the private sector.

The bottom line, according to Abbey and Boyd: "Replacing the large number of workers retiring in the next decade will be a great challenge for federal, state, and local governments."

There is some debate over just how dire the impending personnel situation may be for government. Some call it the next "Y2K" of government administration; others see a more gradual transition. Sam Ehrenhalt, author of an earlier public sector workforce study, also for the Rockefeller Institute, called the impending wave of retirements "[a] big locomotive traveling down the tracks." Ehrenhalt also pointed out in that earlier study that the number of workers age 25 to 44—prime recruitment fodder for government—is expected

Glossary

Appointment—the formal hiring of an employee

“At will” employee—employees who are hired with the understanding that they retain no property right in their jobs and that they can be demoted or fired at any time without cause

Broadbanding—*with regard to job classification*, the process of eliminating very specific job titles and tightly circumscribed lists of duties and responsibilities under those titles and substituting more general job titles and more general descriptions of job responsibilities; *with regard to compensation*, the process of eliminating discrete pay steps and instead creating a pay range for a given job classification or title; *with regard to testing* (commonly called just “banding”), the ability to make job offers to a range of top scorers on a certified list (versus only the top three, five, or 10)

Bumping—the process whereby more-senior employees displace less-senior employees during workforce downsizings

Certified list—a list of potential job candidates established through a formal written civil service exam

Civil service or merit system—a system of public sector personnel management defined by formal rules that govern all personnel policies and transactions for a state—from recruitment and hiring, to pay and promotions, to job responsibilities and duties, to discipline and dismissal—based on fair, open, and objective standards

Classification—an employee’s official job title (with specific duties and responsibilities enumerated), i.e., Correctional Officer, Environmental Engineer, Librarian, Auditor, Employment Counselor

Classified employee—any employee in a job title covered by civil service

Classified service—all job titles covered by civil service

Downsizing—the process of eliminating jobs/job titles within a government agency

Grade—the level that an employee has reached within a job classification (i.e., Corrections Officer I, Corrections Officer II)

Hiring or appointment authority—any official with the power to hire

KSAs—knowledge, skills, and abilities (also known as “competencies”), the criteria for establishing a job candidate’s qualifications that emphasize broader skills and temperament versus strict technical abilities. While KSAs can be established through written tests, more frequently they are established through self-evaluations, experience (résumé), references, and interviews.

Personnel Board/Civil Service Commission—gubernatorially appointed officials who hear and decide on employee challenges to job actions under civil service, including raises, promotions, job duties, discipline, and dismissal (in states with collective bargaining for public employees, the process for such challenges may be defined by labor contracts and may not involve the civil service commission or personnel board)

Probationary period—a period of time (typically six to 12 months) during which a new hire works without the full protection of civil service (in some states, even probationary employees enjoy full civil service protection)

Provisional employee—employees hired outside the formal civil service system (typically when no certified list exists for a particular job class and an agency can make the case to the central personnel office for an expedited appointment; legally, provisional employees then must be tested within a certain period of time)

Rule of three—the stipulation that agencies can make job offers to only the top three scorers on an exam, plus points for preferences; under some systems it is the top five or 10 scorers

Seniority—length of service as a classified employee (which typically dictates salary level and also extends to employees certain inherent job rights relative to shorter-term employees)

Step—salary levels within job classes (typically dictated by *grade*)

Unclassified employee—any employee not in a job title covered by civil Service

Veterans’ preference—extra points added to the exam scores of military veterans (in some states, preferences are also extended to other classes of applicant including, for example, the sons and daughters of police officers or firefighters who have been killed in the line of duty). In some states, veterans’ preference is absolute, that is, all veterans who pass the exam move to the top of the list.

to drop by three million between 1998 and 2008, meaning that the competition for workers just coming into their professional stride is going to get increasingly fierce.

But whether one prescribes to the “sky-is-falling” view of impending public sector workforce shifts, or whether one is more sanguine about it, government personnel managers are clearly going to be a busy group in the next decade or so. And in the view of many, traditional civil service systems are just not nimble enough to handle the upcoming demands. Indeed, civil service, note some wags, no longer serves to find and secure the “best and the brightest.” Rather it has evolved—or devolved—into a system that lards government with “the best of the desperate.”

While that’s way too harsh a blanket assessment, the level of frustration with traditional civil service systems has been growing steadily. Chief among those frustrations are the length of time it takes to fill vacant positions, the length of time it can take to terminate people, and the myriad and murky rules around advancing people through or moving them around within the system—where tightly written job descriptions and the notion of seniority frequently trump common-sense personnel management, say critics.

The anecdotes on the difficulty of firing public sector employees, in particular, have always been the stuff of public sector personnel management legend. For “The Fine Art of Firing the Incompetent,” a story by this author on firing state and local workers, it took but a few phone calls to track down what had to be one of the most amazing of the genre. It centered on a Hartford, Connecticut, firefighter who over the course of 20 years had been fired three times for being drunk on the job (at one point in his career, he even drove fire trucks), and who, over the same 20 years, had been suspended for a total of 414 days, had used 433 sick days, and who had gone AWOL twice. He kept being reinstated. While hardly representative of how difficult it really is to fire public sector employees, it certainly captured the sentiment—and the reality—that firing non-performing public sector employees can be tougher than it is in the private sector.

Meeting the Civil Service Challenge

What states need to meet future staffing challenges, say reformers, are personnel systems that respond to the needs of client agencies. Too many systems, however, now serve a “control” function, laying down the law on hiring, firing, downsizing, promotions, and reorganization, rather than facilitating best personnel management practices.

It’s easy to understand the frustration when one considers how traditional systems are supposed to work. A central personnel office controls the whole process. Agencies communicate to that office the need to fill a certain position. The civil service department then generates and gives an exam based on the job title that needs filling. From that test comes a list of “qualified” candidates ranked by score. (In many states there are a variety of “preferences” extended to certain classes of applicant, such as military veterans, which add points to overall test scores.) Agencies must then offer jobs to top scorers in turn, working their way down a ranked list. Agencies that wish to hire out of turn typically have to petition the central personnel office for permission. Promotions are similarly based on tests in combination with preferences and seniority.

Meanwhile, moving people around, within, and among agencies can be difficult, because under most civil service rules employees can be shuffled only between like job titles. So the more tightly written the job description, the harder it is to re-deploy staff. At the same time, seniority often dictates who can be moved and where, regardless of skill sets, abilities, or a state’s broader personnel needs.

Under traditional civil service systems, issues of compensation are similarly rigid. Pay is decided by job title. Within a given title there is a pay grade that includes a number of “steps” that employees climb, with pay rising at each step. Those employees who hit the top step in their job title may languish there (pay-wise, anyway), receive some sort of regular bonus calculated by time on the job (but not added to base pay), or be promoted into a new job title. Annual raises for civil service employees as a whole are typically either decided by legislative fiat or negotiated through collective bargaining agreements, subject to legislative approval.

Once hired, classified employees typically spend six months to a year on probation, serving more or less at will, after which time they gain “permanent status” (although in some states permanent status is granted immediately). Permanent status means that the full panoply of civil service protections is wrapped around an employee and that the clock has officially begun to tick on seniority.

The Sanctity of Seniority

Seniority is one of the more fundamental values of a civil service system because it establishes an employee’s status when it comes to such things as raises and downsizings. Most civil service systems operate on a “last hired, first fired” basis when it comes to downsizing. That is, if a particular job title within an agency is experiencing layoffs, then the least senior employees in that title are the ones “bumped” out of a job (and possibly right out the door) first. Or if jobs in a higher-level title are being eliminated, more-senior employees can “bump” employees with less seniority in a lower job title down the chain. George Sinnott, the current head of civil service for New York State, recalls with something short of fondness his days as personnel director for a large New York county during a massive downsizing. Personnel staff had spent days on their hands and knees with paper and pens, charting out who in government might end up where as the cascading layoffs began. Toward the end of the exercise, someone opened the door to the office, creating a strong enough draft to blow days of work into a scattered paper blizzard, which then had to be painstakingly restitched together.

Seniority—the essential value underpinning bumping—is among the more loathed characteristics of civil service by managers. Once in the system, critics say, the notion of seniority dampens employee initiative by rewarding time on the job over job performance.

This is not to discount arguments in favor of seniority, which many maintain is critical to maintaining a high-quality public sector workforce. Seniority, note its proponents, insulates career employees from the vagaries of personal whim and politics, and also offers some assurance to employees that they won’t be punished if doing their job somehow

negatively impacts an individual or business with well-placed political contacts. At the same time, it ensures continuity in career management and can also serve as an incentive to employees who are willing to accept the lower salaries of public sector work for more enhanced job security than they might find in the private sector.

The Sum of All Civil Service Evils

The result of all the rules and rigidity is depressingly predictable, argue reformers: a system where the central agency finds itself unable to keep up with the testing and classification needs of agencies in the field; where lists of eligible candidates quickly get old and out of date; where speed and efficiency are the last values served; and where agencies themselves begin to get quite creative in skirting the rules—not for sinister reasons, but out of necessity. And where employees lose their motivation, thanks to the multiple layers of insulation that pad their status as public servants.

It all adds up to a flat-footed, difficult-to-negotiate, and ineffective way to find, hire, and keep good employees in public service, contend reformers. That is especially true, they say, during times of low unemployment and tight labor markets—such as the country saw during the 1990s—when competition for quality employees is especially fierce.

In response to such criticism, many states have been chipping away at traditional civil service rules. States such as Washington, Wisconsin, Kansas, and South Carolina, for example, have turned away from formal tests as a way to screen potential job candidates, now focusing more on knowledge, skills, and abilities, particularly for higher-skill jobs.

A host of states, including Michigan and New York, have been trying to make job titles more general in order to make it easier to move people around—according to need versus strict adherence to job title. State governments generally have been trying to extract as much flexibility as they can from current rules, loosening up testing requirements while pushing down to the agency level more authority for finding and hiring people (including authorizing on-the-spot job offers). Meanwhile, a number of

states have worked to build some flexibility into pay structures in order to attract—and hold on to—critical staff.

‘Blow It Up’

While dozens of states have done some form of this chipping away, three states in the last two decades decided that wasn’t enough. The three—Texas, Georgia, and Florida—have more or less tried to follow the Walter Broadnax prescription for fixing civil service: “Blow it up.”

Civil service lore has it that Texas never had a centralized civil service system. Actually it did. In the early 1970s the Texas legislature created the Texas Merit Council, which covered employees being paid through federal grants. (Federal law required that all state employees being paid with federal money be covered by some form of merit system.) So for a host of agencies, particularly those involved in social services, Texas did have a centralized merit system for a relatively short while. Under the Texas law creating the Merit Council, other agencies could have opted into the central system. Several actually did so. In 1985, the Texas legislature eliminated the council, returning control of most personnel management to agencies.

Georgia, by contrast, had a very traditional merit system, not much different in its scope and degree of control from civil service systems in such long-time merit system bastions as New York and Massachusetts. In 1996, led by Zell Miller, the Democratic governor at the time, Georgia passed the most sweeping civil service reform bill ever approved by any state in the United States. In fact, it was less “reform” than straightforward elimination. Under the law, every state employee hired by Georgia after July 1, 1996, serves at will, outside the merit system.

Just last year, Florida undertook its own overhaul, pushed by Republican Governor Jeb Bush. While Florida stopped short of Georgia’s complete pyrotechnics, the state has adopted three fundamental, major changes in its system that will dramatically transform personnel administration in the Sunshine State. First it eliminated the concept of seniority for *all* employees in the state personnel

system. Second, it made all its supervisory and management titles at will. Third, the state is embarking on significant collapsing of job classifications—the new system will include much broader categories of work—and is creating “bands” of pay to go with those classifications to replace the old system of pay “steps.”

Given the amount of frustration that exists with current civil service systems, there has been heightened interest in places like Texas, Georgia, and Florida, all of which have moved toward a much more private sector personnel management model. While it is unlikely that many states will follow the dramatic lead of a state like Georgia, there is increasing evidence of states’ willingness to pursue more ambitious reform rather than tinker with testing and titles.

The Washington State legislature, for example, recently passed legislation that gives the state’s personnel director sweeping power to rewrite the state’s civil service rules. Washington, D.C., meanwhile, has removed all of its middle and upper management titles from civil service; they are now all at-will employees, as in Florida. Nationally, there is heightened awareness of the need to modernize personnel systems, as the twin issues of recruitment and retention begin to gain a higher profile in the face of skill shortages and impending retirements.

The purpose of this report is to look at Texas, Georgia, and Florida, how their current systems came to be and how the changes have either improved or complicated personnel management in each state. The report is based on extensive reading about the three states (and many others states, for comparison’s sake), and on dozens of interviews with those both inside and outside the three systems. For other states considering personnel reform, the report is meant to offer a picture of what life is like in states that have considerably loosened strictures on public sector staffing.

Texas, Georgia, and Florida Systems Compared to Traditional Systems At A Glance

	Recruitment	Screening/Hiring
Traditional civil service systems	The central personnel office is responsible for the legal posting of open positions.	Traditional civil service systems are heavily test based with a central personnel office conducting tests for all titles within the classified service. Agencies with job openings contact the central personnel office and ask for a certified list of candidates (established through formal, written civil service tests). If no certified list exists, the agency may ask the central office to give a test or may request permission to hire provisionally. There is sometimes a requirement under traditional civil service systems that a job opening be posted for a certain period of time before it can be filled.
Texas	Agencies are free to recruit as they see fit, whether through newspaper ads, job fairs, trade journals, the state employment "grapevine," their own web pages, or other postings on the Internet. The state also has a central job bank administered by the Texas Workforce Commission.	Agencies are responsible for developing their own procedures for screening and hiring, subject to spot audits by the Texas State Auditor's Office. Texas has largely eliminated formal written exams for most positions, and instead considers "knowledge, skills, and abilities" in concert with references and interviews. In most cases, job offers can be made with no waiting period.
Georgia	Agencies are responsible for their own recruitment efforts, although the Georgia Merit System will handle recruitment for agencies on a contract basis.	Agencies are responsible for developing their own procedures for screening and hiring, although they can contract with the Georgia Merit System for help in testing. Georgia has largely eliminated formal written exams for most upper-level positions, although it still relies heavily on them for entry-level jobs. Candidates are judged either on test scores, plus references and interviews, or are screened based on "knowledge, skills, and abilities" in concert with references and interviews. Job offers can be made with no waiting period.
Florida	Agencies are free to recruit as they see fit, whether through newspaper ads, job fairs, trade journals, the state employment "grapevine," their own web pages, or other postings on the Internet. The state also has a central job bank administered by the Florida Department of Management Services. The state is also contracting out a portion of its recruitment to a private sector provider.	Agencies are responsible for developing their own procedures for screening and hiring. Florida has eliminated formal written exams, even for such high-turnover, entry-level positions as corrections officers. Candidates are judged on "knowledge, skills, and abilities" in concert with references and interviews. Job offers can be made with no waiting period.

Texas, Georgia, and Florida Systems Compared to Traditional Systems At A Glance (continued)

	Promotions	Downsizing	Discipline and dismissal
Traditional civil service systems	Promotions are dictated by formal, written tests, seniority, and applicable preferences (such as veterans' preference).	More-senior employees are protected during downsizings. If a senior employee's job is eliminated through a downsizing, that employee may elect to "bump" a less-senior employee out of a similar or lower job title. Employees with the least seniority are most at risk during downsizings and the most likely to be "bumped" out of state service. Typically, they are then placed on a recall list and must be hired back according to seniority. Those who feel they've been wrongly impacted by downsizings may appeal job actions to their personnel board or civil service commission.	There are formal procedures for disciplining and dismissing employees after the end of the probationary period, usually involving an escalating system of employee interventions. Disciplinary actions may be appealed to a personnel board or commission. In states with collective bargaining, contracts may also cover procedures for discipline and dismissal.
Texas	Agencies may promote as they see fit, using "knowledge, skills, and abilities," references, and job interviews.	Because all employees (outside of law enforcement) are unclassified, there is no such thing as seniority or bumping. Agencies may eliminate positions and people as they see fit.	Agencies establish their own procedures for discipline and dismissal. Appeals typically go to ad hoc committees of peers and managers. The appeals process stops at the agency director level (there is no statewide personnel board or commission that hears appeals).
Georgia	Agencies may promote as they see fit, using "knowledge, skills, and abilities," references, and job interviews.	All employees hired after July 1, 1996, are "unclassified" and, therefore, have no bumping rights. Those hired before July 1, 1996, who have not accepted a promotion or transfer that places them in an unclassified job have the full, traditional seniority protections extended under civil service.	Agencies establish their own procedures for discipline and dismissal. The appeals process stops at the agency director level.
Florida	Agencies may promote as they see fit, using "knowledge, skills, and abilities," references, and job interviews.	Seniority was eliminated for all employees in the state service (except for nurses, firefighters, and those in law enforcement) regardless of when they were first hired. Agencies are free to eliminate positions and people as they see fit.	Employees in the classified service may appeal adverse job actions to their agency head, the Public Employee Relations Commission, or the District Court of Appeals. Layoffs and transfers are not appealable. Employees in the Selected Exempt Service have no rights of appeal.

Creating new job classifications/titles	Compensation
<p>Agencies that feel that jobs or job responsibilities have evolved to the point where existing job titles don't capture the responsibilities/duties involved in doing certain jobs may petition the central personnel office for a new classification/title. If the request is approved, the central personnel office then comes up with a formal job description (including a list of the specific duties and responsibilities of the job) and a new civil service exam for the job title (the central personnel office would then administer the test and develop a certified list of candidates).</p>	<p>Pay is dictated by job classification and step. Raises are typically automatic as employees move up pay steps within a job class, dictated by time on the job. Under some systems, those who have reached the top step of their pay grade may receive some annual cash bonus (depending on an agency's budget and legislative dictate) related to their seniority and not added to base pay.</p>
<p>Agencies that want to create new classifications or titles must petition the Texas State Auditor's Office.</p>	<p>For non-supervisory positions in Texas, there are pay steps within a job class. Employees don't automatically move up within steps, however. In order to give raises in Texas, agencies have to demonstrate that an employee deserves the increase through better-than-average performance. For supervisory positions, there is a sliding pay scale (a pay range related to a particular job classification). Agencies are mostly free to pay supervisory staff any amount within that scale, based on superior performance. Extraordinary raises (above 6 percent) must be cleared through the Texas State Auditor's Office. Texas agencies are generally accountable to the State Auditor's Office, which may conduct reviews of compensation and classification for specific agencies or across agencies to ensure statewide consistency. Compensation for law enforcement positions in Texas exists under a more formal, automatic "step" system, similar to that found within traditional civil service systems.</p>
<p>Agencies are free to create new job classifications/titles as they see fit, subject to Georgia Merit System audits.</p>	<p>The Merit System maintains a compensation and classification system for entry-level positions that agencies are theoretically tethered to. However, because Georgia agencies are allowed to create job classes as they see fit, it is easy to sidestep the formal compensation and classification system in Georgia, even for entry-level hires. For all other employees, agencies are free to pay whatever they wish. The Georgia Merit System is authorized to audit agencies to ensure that classification and compensation are consistent across the state; however, no audits have ever been conducted. Georgia also has recently created a system that allows management to grant top performers a one-time bonus, dispensed at management's discretion and according to available resources.</p>
<p>Florida has gone to an extensive system of "broadbanding" job classifications, which means that job titles are no longer so specifically tethered to a certain set of very specific duties and responsibilities. The broadbanding effort has largely eliminated the need to develop new job classifications or titles. To the extent that an agency still wants to create a new job class, it would require approval from the Florida Department of Management Services.</p>	<p>The Florida Department of Management Services recently created a new system of broadbanded pay to go with broadbanding of job classifications. Agencies are free to compensate employees within whatever range applies to a particular job class. Management also has the power to grant bonuses tied to measurable savings generated by an employee or group of employees.</p>

Civil Service Reform in Texas

Impetus for Reform

As mentioned earlier, Texas is considered the grandfather of civil-service-free states. It officially achieved that status on June 12, 1985, when the state legislature voted to abolish what was known as the Texas Merit Council (TMC).

The council was created in the early 1970s to ensure that Texas state agencies were complying with federal law requiring that state employees being paid with federal money be covered by some form of merit system. (Since the days of the Merit Council, the federal government has modified its requirement that federally paid state employees be covered by a formal merit system. Instead, the federal law now asks that state agencies with federally funded employees follow six basic merit “principles” in their personnel management practices.) The council never did cover *all* Texas state employees, so in that respect, Texas arguably never has had a completely centralized, overarching civil service system.

At its height, the Texas Merit Council covered thousands of employees in nearly 10 agencies. Under the council’s enabling legislation, other state agencies were allowed to opt into the centralized system. Only a handful ever did. Texas has never been a place that evinced much affection for central civil service, and organized labor has nothing close to the clout necessary to push—or preserve—it. Viewed by the legislature as an unnecessary appendage to government administration and a waste of money, legislators, without much fanfare or debate, voted in 1985 to eliminate the TMC.

The meat of the bill abolishing the council is a single long sentence: “Each state agency that is required by federal law or regulation to use a merit system of personnel administration for that agency or a program administered under that agency shall establish by rule interagency procedures and policies to ensure agency compliance with the federal requirements and the recruitment, selection, and advancement of highly competent agency personnel.”

According to Kemp Dixon, director of human resources management for the Texas Department of Human Resources, who worked for the TMC from 1976 until its demise, the legislature in 1985 was actually presented with a choice: either have a centralized merit system for all state employees or have no centralized system at all. The legislature didn’t hesitate in its decision. In addition to eliminating the council, the bill asked affected agencies to hire staff of the council displaced by the law.

The idea of rekindling some sort of centralized system still comes up in Texas. “There’s a bill thrown in the hopper pretty much every year to create a statewide system,” says one agency personnel director. Such bills, predictably, never make it very far. According to Dixon, there is preliminary discussion and analysis of the possibility of having one central personnel management office for the dozen or so social services agencies operating in Texas. “It flies in the face of what normally goes on in Texas,” says Dixon. “But it would certainly allow the state some economies of scale.”

Current Personnel Administration

Such efforts notwithstanding, Texas continues on its decentralized way, more or less. In fact, Texas's personnel administration isn't completely decentralized. One very important component of human resources (HR) in Texas is highly centralized: its compensation and classification system, which covers 143,000 employees. (The state's judicial, higher education, and legislative branches all operate independently.) In that respect, Texas resembles Virginia, which essentially leaves the nitty-gritty business of personnel management up to agencies, but has a centralized system for administering pay across job titles statewide. The compensation and classification tables for the state are administered by the State Auditor's Office (SAO). One of the main reasons for the centralization of "comp and class," say Texans, is to ensure consistency statewide in what people are paid for like work.

So life for agency HR managers in Texas isn't completely free of central oversight. The SAO ultimately decides on job titles and what kind of pay comes with those job titles. To change either, agencies must petition the SAO and make the case for why a job title should be created or adjusted, or why compensation for certain titles should be adjusted. Compensation and classification staff in the SAO also spot-check agencies to make sure that work actually being performed out in the field is consistent with job titles.

Because of Texas's extremely decentralized system, the administrative structure for personnel management in agencies varies considerably among its dozens of agencies, departments, and commissions. Large agencies have whole divisions devoted to HR management. In other agencies HR management might be just one of the responsibilities of a general administrator responsible for all internal management of an agency, from personnel to finance.

In thumbing through an organizational directory for Texas, there seem to be as many titles for human resources management as there are agencies and commissions, including Administrative, Finance, and Personnel Director; Human Resources Assistant Deputy Executive Director; Administrative and Support Services Director; Human Resources and

Administrative Director; Human Resources Division Director; Human Resources Director; Personnel Director; Human Resources and Staff Development Division Director; Human Resources Manager; Staff Services Officer; Operational Support Division Director; Human Resources Division Manager; Human Resources Assistant Director; and so on.

But essentially each of these officers has the same responsibility: to come up with a defensible system for hiring, retaining, promoting, and firing (either for cause or due to reductions in force [RIFs]) employees in their agencies.

Recruitment and Hiring

In general, Texas agencies are free to recruit, screen, and hire as they see fit. Depending on the agency, that process can take anywhere from days to weeks. No average "time to hire" has been calculated in Texas, because agencies operate so independently.

Agencies pursue as many strategies for finding job candidates as the private sector, ranging from formal advertisements in newspapers, to attending job fairs, to having openings listed on their own agency websites, to relying on word of mouth. There is a centralized, statewide online job listing service, known as the Governor's Job Bank, which is maintained by the Texas Workforce Commission. There is one standardized application for all state jobs. There is no uniform time requirement for length of postings before jobs can be filled as there are in some states. (In Massachusetts, for example, jobs have to be posted for four weeks before they can be filled, a policy that drives agency personnel staff in the Bay State crazy.) However, some agencies do have policies that jobs be posted for a certain length of time (although as one agency personnel administrator noted, such requirements are a bit silly in that there are times when the job is actually filled *before* the expiration date of the required posting).

As in the private sector, informal contacts in Texas are as important in recruiting as formal avenues for finding good people, notes Tom Walker, HR director for the Texas Department of Economic Development. "There's the Governor's Job Bank, but [state HR managers] will pull up each other's websites or we'll be contacted through the

grapevine about openings. A lot of hiring in state government is word of mouth, even before a posting even happens. I interact all the time with my colleagues in other agencies and they'll say, 'I'm about to post this job and if you know of anyone who would be good, let them know.' "

In general, there is very little formal testing for jobs in Texas. For example, the Department of Parks and Wildlife eliminated entrance exams for law enforcement officers (rangers, for example) within the past couple of years. Instead, all applicants simply have to have a degree, which qualifies them as eligible to apply for a Parks and Wildlife law enforcement job. As a screening mechanism, HR Director Annette Dominguez says the switch actually improved the quality of candidates who apply. "Once we implemented the degree requirement, testing really became moot and our law enforcement academy reported improved performance generally among recruits."

There is a preference for hiring veterans in Texas, although such a preference doesn't represent the same hard-and-fast leg up that it does in states where formal, written testing for jobs is more widespread. To the extent that Texas does test, agencies are required to add 10 points to a veteran's score. But obviously in a system where the emphasis is on knowledge, skills, and ability, hiring is ultimately management's call, and so being a veteran in Texas isn't as distinct an advantage to a job applicant as it is in states like New Jersey or California.

Pay Raises and Promotions

Texas has three different sets of tables and rules for three categories of employee when it comes to pay, all administered through the State Auditor's Office. Schedule A covers frontline and clerical/administrative employees. Schedule B covers supervisory and management staff. Schedule C covers those in law enforcement.

For those covered by Schedule A, there are set pay "steps" within a job title that an employee can work through. Moving up through those steps is not as automatic in Texas, however, as it is in many states with more traditional civil service systems where time on the job means a more or less automatic chunking up pay steps. In order to give raises in

Texas, agencies have to demonstrate that an employee deserves the increase through better-than-average performance.

The same is true of raises for supervisory and management staff in Texas under Schedule B: No raise is automatic. To the extent managers are given raises, they move on a fluid sliding scale with a low and high end that dictates the salary parameters; there are no set steps up through which managers progress. According to Texas HR managers, raises of up to almost 7 percent are possible under Schedule B for outstanding performers. More-generous raises than that are unusual, say HR managers, and must be accompanied by a "justification notice" that is reviewed by the state auditor. Texas did recently authorize bonuses of up to \$3,000 (not added to base pay) in information technology (IT) titles to allow states to attract or retain IT staff.

In cases where agencies want to win the right to pay more than what's allowed under the standing compensation charts, they can petition the state auditor for a recalibration. In general, HR managers say, well-researched and documented requests typically pass muster. What limits pay, they say, are overall agency budget allocations.

There is one class of employees in Texas for which seniority does matter when it comes to pay and for whom time on the job does add up to automatic increases. That is Schedule C employees, which includes all law enforcement titles in the state, from state police, to state park rangers, to border patrol officers. Depending on whom one asks, that arrangement is either due to the importance of experience—and rewarding it—when it comes to law enforcement, or it is due to the political clout of law enforcement employee organizations in the Texas legislature (more on this in the final section of this report).

As with pay, promotions among Schedule A and B employees in Texas are a function of job performance and not longevity, say HR managers, although experienced (senior) employees tend to dominate the potential promotion pool, they add. As with hiring, promotions generally are not test-based, but rather are offered commensurate with experience coupled with special skills and abilities. That's true for all titles in Texas, again with the

exception of law enforcement, where seniority is a consideration for promotion and promotional tests are required.

Downsizing and Discipline

As opposed to traditional systems where seniority is a central value embedded in the civil service code, downsizing in Texas can hit any classified employee in Texas at any time, with no “bumping” consequences. However, in general, say Texas HR managers, more-senior staff are more likely to survive a downsizing. One HR director says her medium-sized agency doesn’t tend to use RIFs to target specific employees; rather, “we make functional cuts to programs with the least business value.” To the extent that her agency makes judgments about which individuals to cut in a RIF, she says probationary employees, temporary staff, and those who might have some ongoing discipline problems are among the most likely to be let go.

Discipline and firing in Texas also follows a more private sector model, although Texas agencies, particularly larger ones, seem to be very aware of the need for care in handling such cases. All the HR managers interviewed for this report emphasized that there are clear written policies for discipline actions up to and including “involuntary separations.”

Addressing discipline and job performance in Texas agencies generally follows the progressive model, starting with verbal warnings, written warnings, plans for improvement, and then, if an employee doesn’t turn his or her behavior or performance around, termination. Employees can appeal disciplinary actions, usually to an ad hoc panel of peers plus a “hearing officer” (typically an attorney with expertise in employment law). Those panels then make a final recommendation that is reviewed by the agency’s director, who has the final say in such actions. Employees who are terminated are essentially suspended without pay pending the outcome of the appeals process, if there is one. If the termination is reversed, employees are reinstated with back pay. If it is upheld, employees can always pursue other legal action, in particular by claiming discrimination, and either filing a complaint with the state’s Human Rights Commission or going straight to court. If an employee does appeal, HR managers

in Texas say that it can take from a few weeks up to three months to come to resolution.

HR managers interviewed for this report noted that terminations for cause were relatively rare and that such terminations were seldom reversed. Nor did they feel that the appeals process was overly cumbersome. According to the SAO, just over 5,400 employees were “involuntarily” separated from state employment in 1999.

Effects of the Reforms

The Basics

Doing away with the Texas Merit Council was not the huge culture change in Texas that drastic revamping of civil service was in Georgia and Florida. However, its impacts on the affected agencies were nonetheless significant:

- More responsibility for agency personnel staff and hiring authorities
- More flexible recruitment
- More timely hiring
- More flexibility in pay and promotions
- More flexibility in reassignment and downsizing
- Less formal protection for newly reclassified (as unclassified) employees in the case of reassignments, downsizings, discipline, and dismissal

General Observations

There are several obvious concerns about potential abuses under such a decentralized personnel system as Texas has. The first, of course, is that patronage hiring might get out of hand given the amount of agency-by-agency personnel discretion, with gubernatorial appointees looking to purge career employees and install loyalists.

While no formal study has ever been made of the impact of patronage on state hiring in Texas, HR managers report virtually no pressure on them to make personnel decisions based on someone’s political loyalty or lack thereof. There’s no doubt that a huge part of the reason for that is that under Texas statute, governors have very little appointment authority, with most agencies being run by commissions made up of officials appointed by the

governor to staggered terms that overlap election cycles. While it would be naive to say that politics has nothing to do with *those* appointments, what happens below that level seems to be fairly well insulated from patronage abuse in most agencies.

Even close outside observers of Texas government and politics say that patronage isn't a huge issue there. "It's not uncommon for state agencies to become repositories for campaign staff or former officeholders," says Harvey Kronberg, editor of the Quorum Report, an online newsletter that covers Texas government (www.quorumreport.com). "But there are no wholesale purges" in government with changes in administration, Kronberg says. In fact, the more complicated the agency, "the more predisposed the new person is to actually keeping the older folks around for institutional memory," he notes.

Another classic criticism of such decentralized systems is that they confound comprehensive workforce planning because of a lack of centralized information on statewide hiring and employment patterns. In Texas, the state auditor, in fact, collects quite an array of data, issuing quarterly statewide employment reports. The SAO can, for example, quickly gin up reports on such things as how many people are working for the state, their average salary, their average age, and their average time of service. The state is even working on a statewide database of exit interviews, so that officials can develop a clearer picture of why people leave state service.

If there is any consistent complaint about the Texas HR system on the part of agency HR managers, it revolves around legislative meddling in HR management. Such meddling ranges from such nitty-gritty issues as benefit and leave policies to more sweeping legislative directives about things like caps on full-time equivalent employees for some agencies, or mandated salary caps or even mandated salary increases for some agencies. "We go through cycles," said one HR manager. "Some legislatures do a lot of micromanaging; others are more strategic in their thinking."

But even such "micromanaging" can have its benefits, admit HR managers. For example, a recent directive of the last legislature was that Texas agen-

cies come up with both strategic plans and strategic workforce plans. Such plans have to identify who will be eligible to retire within the next few years and what skill sets might walk out the door with them. "It was tedious to do," says one HR manager, but it was also "an eye-opener." It turned out that one-quarter of her agency's staff was going to be eligible for retirement over the next five years. The agency is in the process of coming up with strategies for backfilling those skill sets.

HR managers also note that inoculating themselves from charges of bias in hiring are also a concern, given the amount of discretion they enjoy. Texas actually does offer centralized help in that regard, with the Texas Commission on Human Rights (TCHR) offering agencies direct guidance in developing HR policies and procedures aimed at building diversity into the workforce and avoiding charges of discrimination. The TCHR will conduct audits of personnel policies at the request of agencies, make recommendations for improvements, and then offer "certification letters" to those agencies that meet TCHR standards in their HR policies.

But even agency HR managers who complained about the drawbacks of decentralization—the combination of discretion and accountability can be nerve wracking, they say, and the biennial slew of new rules and regulations that sometimes pours forth from the legislature vexing—overwhelmingly, agency personnel managers said they appreciated the broad flexibility and discretion that the decentralized Texas HR system granted them. Only one Texas personnel manager interviewed expressed the occasional longing for a more centralized, cut-and-dried system.

Reflections on the Texas Experience

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In recent years, themes like flexibility, decentralization, and deregulation have captured the imaginations of HR reformers. Since Texas has historically utilized the approach now being advocated, it stands as a perfect case study for understanding the consequences—both positive and negative—of the HR reform model. Survey findings (from HR directors in 99 Texas agencies) offer a number of important lessons to the public HR field.

HR Directors Enjoy Their Autonomy and Will Use Their Discretion

The most basic finding from this analysis is that Texas' HR directors highly value the discretion they receive as a product of the state's decentralized approach. In fact, there was widespread agreement—even among those respondents lacking in HR expertise—that HR flexibility was key to state agencies' effectiveness. Moreover, the Texas case suggests that HR directors will in fact make use of their HR discretion, something that has heretofore been questioned in the academic literature. And, by and large, most respondents agreed that they have used their discretion to develop effective HR programs within their respective agencies. Of course, it is important for reformers to remember that HR directors in Texas have *always* operated in a decentralized, deregulated environment. It may well be the case that HR professionals in other jurisdictions will have to warm to the idea, but Texas shows that over time they will.

The Texas HR Model Is Not a Panacea

The second lesson to be drawn from this analysis is that Texas' approach to HR is not a panacea. The virtues and vices of both a centralized, regulated approach and of a decentralized, deregulated approach are well known. Since the former approach has tended to be dominant in the U.S., attention has naturally focused on its shortcomings and on the benefits of the latter approach.... To those looking from the outside, Texas' approach appears to offer an enviable level of flexibility and agency-level control; to those Texas agencies lacking HR expertise who are looking (and operating) from the inside, Texas' approach appears to create inequity, political influence, and ineffectiveness, making a centralized approach somewhat more appealing. Thus, HR reformers would be wise to consider the effects of decentralization and deregulation on those agencies—especially small agencies—that lack sufficient HR expertise and resources: to do otherwise is to invite trouble.

Equity and Political Abuse Are Not Synonymous with Decentralization and Deregulation, but Cause for Concern Remains

The third lesson, which tends to corroborate earlier state-level research, is that HR decentralization and deregulation have not resulted in rampant equity and political abuse in Texas state government. Survey results showed that the most egregious forms of equity abuse (i.e., overt discrimination) and political abuse (i.e., overt patronage) were not widely perceived by the state's HR directors. This implies that deregulation and decentralization can potentially operate in HR systems without compromising long-held administrative values.

This does not suggest, however, that there is no reason for concern. To the contrary, HR directors strongly agreed that salary inequities existed across state government; one-fourth agreed that a centralized approach to state HR would make the state employment more equitable, and a sizable percentage (22%) agreed that a centralized approach would help protect employees from partisan political influences. So, while in a general sense equity and political abuse appeared to be held in check in Texas, there was also considerable agreement that the state could do more to protect state employees....

The Importance of Considering Multiple Perspectives

Finally, the lessons presented here are subject to an important caveat: they are drawn from the perspective of the state's HR directors. From a validity standpoint, these respondents had self-interest in portraying HR practices positively—at least in their own agencies—as this was in part a reflection on their performance. That they did not do so uniformly, however, offers a measure of confidence to the survey findings. Still, in order to gain a truly representative picture, it is important to take into account the perspectives of managers, front line workers, and other interested groups....

Conclusion

As we move into the twenty first century, there are no indications that the high performance expectations citizens and politicians place on government agencies will subside. The "more for less" mentality seems firmly entrenched in the country's psyche. Public administrators operating in this environment continually feel pressured to find ways to improve performance. Since many of government's performance problems are "people problems," HR has become a primary target for reform. Since it is the only state operating without a central HR office, Texas has gained considerable attention from reformers. As this research demonstrates, opinions from within Texas state government provide cause for both optimism and concern over HR decentralization and deregulation's ability to solve government's people problems.

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Civil Service Reform in Georgia

Impetus for Reform

In 1996 Georgia embarked on the most sweeping frontal assault on civil service ever attempted in any state in the United States. No other state had ever so sincerely embraced the Walter Broadnax prescription for fixing civil service. But what Georgia did wasn't so much blow up civil service as melt it down.

Having become a devotee of Philip K. Howard and his book *The Death of Common Sense*, then-Governor Zell Miller was well aware of how rules and regulations, first enacted for a clear and noble purpose, could—as decades passed—devolve into arcane obstacles to efficiency. In his 1996 State of the State address, Miller lit the fire under the ice block that was the state's very traditional civil service system:

I will also bring you [the Georgia General Assembly] legislation to revise the State Merit System, which was established more than 50 years ago to create a professional workforce that was free of political cronyism. And at that time, that was a valid and important goal. But too often in government, we pass laws to fix particular problems of the moment, and then we allow half a century to roll by without ever following up to see what the long-term consequences have been. Folks, the truth of the matter is that a solution in 1943 is a problem in 1996. The problem is governmental paralysis, because despite its name, our present Merit System is not about

merit. It offers no reward to good workers. It only provides cover for bad workers.

In characterizing the state's 53-year old civil service system as one that protected incompetent incumbents (worse, incompetent incumbents being paid with taxpayer money), Miller was playing directly to the traditional and popular image that most Americans seem to have of civil service as a system that extends special protection to public employees—bad ones in particular—protection not extended to most other working men and women in America.

But if the launch of his public campaign to overhaul (overturn) Georgia's Merit System was cleverly phrased, the behind-the-scenes push on reform was politically brilliant. Led by Joe Tanner, one of the governor's right-hand men and director of the Governor's Commission on Privatization, the overhaul was a done deal before it ever hit the General Assembly floor. There were never any formal hearings on the legislation and less than an hour's worth of debate in either house when the law did finally come up for vote.

An account of the legislative action on the bill in the *Atlanta Constitution and Journal* describes the props that Senate floor leader Thurbert Baker had brought with him that day to bolster the bill's already cinched chances. On the one hand was a four-inch-thick stack of paper that Baker said contained the nearly 800 pages that had accumulated over the three months it took to hire a single maintenance worker through the Georgia Merit System. On the other hand was the considerably thicker

pile of more than 1,100 sheets that Baker said had built up over the 18 months it took to fire “a truly bad employee.”

There was some anemic labor opposition to the law—Act 1816—but no sustained or effective opposition ever materialized from Georgia state employees, nor was it expected. As a so-called “right-to-work” state where collective bargaining for public employees is expressly prohibited, Georgia is not known as a bastion of labor unionism. If there was any pattern to the opposition, it broke along racial lines, according to an analysis of the vote by Charles W. Gossett, associate professor of political science at Georgia Southern University. In the Senate, half the black members voted against the measure (as compared to only 20 percent of Democrats, traditional friends of labor). In the House, 64 percent of black legislators opposed it (as compared to only 26 percent of Democrats). But Act 1816 passed both the Senate and House overwhelmingly.

In fact, it wasn’t just Tanner and Miller and back-room maneuvering that won the day on the sunsetting of Georgia’s Merit System. The direct “customers” of the central personnel system were pretty burned out on dealing with what had by most accounts become a remarkably impenetrable bureaucracy. It was the personnel directors out in the various Georgia agencies—the officials who had to deal with the Merit System day in and day out to get lists of qualified job applicants or permission to create new job titles—who had developed into quite a strong and effective lobby for reform. Those personnel officials in the field fed Miller and the legislature multiple tales of personnel misery, and there were ample tales to tell.

A classic involved the state’s efforts to ensure a smooth-running 1996 Summer Olympic Games. The Georgia Department of Transportation (GDOT) wanted to launch a fleet of roving tow trucks to quickly clear traffic accidents and breakdowns on Atlanta’s notoriously traffic-clogged highways. But there was no job title in Georgia for “roving, troubleshooting tow truck driver.” When GDOT petitioned the Merit System for permission to expedite hiring by using an existing title, personnel officials balked: The existing title that GDOT wanted to use and the actual job were just too different. When GDOT officials asked how long it would take the

Merit System to create a new job title, develop a list of skills commensurate with the title, create a test to measure those skills (and also verify the validity of the test), give the test and then generate a list of qualified candidates, the answer that came back was, basically, sometime after the Olympics. In a harbinger of Act 1816, GDOT did an end run of the Merit System and won permission for the General Assembly to proceed with hiring tow truck drivers outside of civil service.

So when Act 1816 passed, among the happiest people in the state were those who headed up agency personnel offices; they were finally being cut free from a system they regarded as the central bane of their existence.

Current Personnel Administration

In essence, Act 1816 sunsetted the Georgia Merit System as the “control agency” around personnel actions. (The Merit System continues to administer the state’s 401(k) plan and some other benefits like dental coverage, but health care and pensions are administered by outside agencies.) Act 1816’s central provision required that all employees hired by the state after July 1, 1996, serve at will, with no civil service protection. While such employees would receive the same basic benefit packages as classified employees, they would have no seniority rights (they couldn’t “bump” anyone anywhere) and no formal rights to appeal disciplinary actions, whether those actions came in the form of letters of reprimand, less-than-flattering annual job performance reviews, pay cuts, or even dismissal. Post-July-1996 hires could be transferred, demoted, promoted, or ruffed at the complete discretion of management.

Also gone for new hires were the traditional and predictable annual “step” pay increases that chunked employees up the pay grade ladder. As part of the reform effort, Governor Miller by executive order also created GeorgiaGain, a pay-for-performance scheme designed to complete the transformation of the Georgia personnel system from a very traditional governmental model to a very traditional private sector model.

Just how fundamental a change Act 1816 represented probably didn’t really sink in until well after

its passage: Georgia's 99 agencies were essentially cut loose to do their own recruitment, screening, hiring, and firing. They could create their own job titles and set their own pay scales for those jobs. They could discipline and dismiss with lightning speed. In essence, they operated with the same personnel flexibility accorded a small local landscaping business or a large local corporation, like Coca-Cola Corp. (As will be discussed later, some argue that Georgia employees actually now have fewer rights and avenues of recourse to challenge disciplinary actions than employees of a small business or a large company.)

Technically under the reform law, the Georgia Merit System was supposed to continue to administer compensation and classification tables for entry-level clerical and administrative jobs in an arrangement not unlike the one Texas has for all state jobs. At the same time, the Merit System hung out a new shingle: consultant to agencies on all matters of personnel—from recruitment, testing, and hiring, to management training and strategic workforce planning.

The Merit System also was supposed to fill the somewhat contradictory and throwback role of auditor of good personnel practices in agencies statewide, a role that to this day has yet to gel in the ever-evolving department.

Recruitment and Hiring

There is no longer any requirement that Georgia agencies confer with the Merit System when it comes to recruitment and selection. Some Georgia agencies have contracted with the Merit System to help with testing. For example, the Department of Corrections contracts with the Merit System to administer tests for corrections officers. (As part of Corrections' own internal streamlining, the department no longer requires applications for the job; they simply announce when and where the test will be given, and interested applicants just show up.) Lists of qualified applicants generated by the test are then distributed to prisons. Hiring authorities at the prisons do their own selection.

Peggy Ryan, director of personnel for Corrections, notes there have been problems with timely scoring of the Merit System administered tests, but those problems are being worked out. Meanwhile, her

office is also working with the Merit System on a promotions test for prison sergeants and lieutenants. The Department of Juvenile Justice, likewise, is currently getting Merit System help in developing a new exam for juvenile corrections officers. But in the main, agencies in Georgia are completely free from any connection with the Merit System when it comes to finding, qualifying, and hiring employees—except if they ask for help. The bottom line is that formal, written tests for most jobs in Georgia is a thing of the past.

As a direct result of this new freedom, agencies statewide report a considerable decrease in time to hire. For example, Reuben W. Lasseeter, a long-time veteran of Georgia personnel management who recently retired as head of personnel for the Georgia Department of Human Resources, says speed of hiring in his agency went from months to weeks almost overnight. Indeed, an agency "hiring authority" (public personnel-speak for anyone in an agency with the power to offer someone a job) under Georgia's new system can today conceivably run into someone on the sidewalk and offer him a job on the spot.

Pay Raises and Promotions

As mentioned above, one vestige of civil service oversight contained in Act 1816 was a provision that the Merit System would continue to oversee compensation and classification for certain entry-level jobs. The idea was to create some consistency in both the skill sets and pay scales involved in similar work among a common job class across state agencies. In fact—and, as it turns out, in practice—there is no compelling reason for agencies to pay much attention to Merit System rules when it comes to what anyone gets paid, or what anybody's actual job duties consist of when compared to their title, entry level or otherwise. Because agencies are now able to write their own new job titles free of Merit System oversight, hiring authorities in the field can simply create special titles and attach whatever pay they wish to that title, regardless of the real job. So if an agency wants to pay more to attract a higher-quality candidate to some low-level clerical position, it can simply create a new job title and pay scale. According to agency directors in Georgia, this is exactly what's happening now in the sometimes cutthroat competition for top performers.

In fact, the state has seen a proliferation of job titles—a one-third increase, according to state officials. “If agencies don’t like what’s out there, they just create a new title,” says Mike Sorrels, formerly an upper-level manager with the Merit System and now head of personnel for the Department of Juvenile Justice. (As mentioned earlier, the Merit System is supposed to be auditing agencies to ensure that this privilege is not abused and that there is “like pay” for “like work,” statewide. As of this writing, the Merit System has yet to conduct a single audit.)

Pay raises in Georgia, meanwhile, are no longer automatic for anyone. Under GeorgiaGain, state employee pay is now supposed to be tied tightly to job performance. Clearly, when there’s money for raises, such a system might prove to be an effective motivator. But GeorgiaGain has been controversial in part because it hasn’t always been very well funded. Generally, both frontline employees and managers report that pay for performance hasn’t proved to be the significant motivator that the legislature had hoped for when it created the program. A recent bonus pay plan instituted by the legislature—PerformancePlus—for top performers has too short a track record at the moment to be judged. The actual power of pay for performance in the public sector is a matter of considerable ongoing debate nationwide. Studies indicate that in general the idea has never really lived up to its promise, and that appears to be the case in Georgia.

But the change in compensation policy in Georgia is nonetheless profound and very straightforward: For those hired after July 1996, mere time on the job (seniority) is meaningless when it comes to any increase in base pay.

Promoting employees in Georgia is far simpler under the new system than the old, with one catch. Under Act 1816, those in the classified service (employees hired before July 1996) who accept promotions into new, unclassified job titles lose their civil service status. Veterans like Lasseter have seen three responses on the part of classified employees when faced with the chance to move up into an unclassified job: Those with confidence in their skills and abilities make the move without thinking much about it. Others make the move, but with some

trepidation about losing their classified status. The third group won’t make the move no matter what, says Lasseter, even employees who are top performers.

Because there’s been no methodical study of classified employees and their inclination to move up and into unclassified jobs, the extent to which the potential for losing civil service protection has kept good employees from moving up the career ladder in Georgia is unclear. All anyone can say with any certainty is that it has had at least some stifling impact on advancement of qualified employees.

But the bottom line on promotions in Georgia is also very straightforward: They are now a management prerogative for all unclassified employees. Some agencies continue to test for promotions; for most, though, it boils down to an assessment of skills, knowledge, and abilities in combination with references and interviews.

Downsizing and Discipline

As the percentage of Georgia state employees in the unclassified service (that is, those hired after July 1, 1996) increases, the logistics of downsizing and reorganizing become considerably less complicated. With no seniority, unclassified employees have no right to bump anyone who’s served less time in state service than they have. And so how complicated downsizings or reorganizations might be decreases steadily every year. In June 1996, just before Act 1816 went into effect, 82 percent of the Georgia workforce was covered by civil service. As of June 2001, that percentage had been cut exactly in half. According to Merit System projections, around 80 percent of the state’s workforce will be unclassified by 2006.

Again, with at-will employment, no employee has any special advantage over another with respect to job security based on longevity. So if a position is eliminated and is occupied by an unclassified employee—even one with years and years of experience—that employee has no right to bump a less senior staffer out of a like or lower-level job. By the same token, though, agencies have the complete flexibility to move that employee somewhere else, without having to worry about whether the move is to a slightly different—or even very different—job

title, a personnel practice that would have caused huge problems under the previous personnel regime.

Discipline and dismissal in Georgia right now is not quite so freewheeling as it was when Act 1816 first passed. Initially there was no formal requirement of due process for any employee in the face of any adverse job action. Worried that that might cause the state legal problems, the legislature in 1998 passed a law requiring agencies to set up formal appeals processes. Governor Roy Barnes, Miller's successor, vetoed the bill, and then turned around and essentially mandated the same requirement by executive order.

All agencies must now extend to employees the right to appeal in two cases: a poor performance review or a termination for cause. But in both instances, the appeals process ends at the director level of any agency. That means that the appeals process is nothing like it was when employees could take their case to the Georgia State Personnel Board, the oversight body for all employment actions under the previous Merit System regime.

As a result, say personnel managers, the whole appeals process has been reduced from taking months to taking days for unclassified employees. In fact, agency directors report that very few unclassified employees who are fired even try to appeal, simply because the state now has a reputation as having few protections for public sector employees. In the case of dismissal, employees are removed from their jobs without pay. If the firing is reversed on appeal, then the employee will be reinstated with back pay.

Because Georgia still has thousands of employees covered under the Merit System, the contrast in the process for firing classified and unclassified employees today is especially stark. For example, Peggy Ryan at Corrections says the department has a hard-and-fast rule: Employees convicted of driving under the influence are terminated, period. Recently, unclassified employees have been fired for such transgressions at the same time as classified employees were being reinstated after dismissal for the same offense. In the case of the classified employees, says Ryan, the State Personnel Board

ruled that the "one-strike-and-you're out" policy was "too harsh." In the case of the unclassified employees, one strike and you *are* out. (Such wildly disparate treatment of employees doing the same work does raise interesting legal questions; they have yet to be pursued by any enterprising labor lawyer in Georgia.)

As simple as canning an employee in Georgia might now be, firing people is still considered to be the option of last resort, at least in the larger agencies, which have a hard enough time finding and hanging on to qualified workers. The bigger agencies in Georgia, like Corrections and Human Services, all seem to sincerely view having to terminate someone as a failure of personnel and management and so have instituted programs of progressive discipline that emphasize corrective action and a chance for employees to improve their performance before termination.

At that, the most measurable change in Georgia in the wake of Act 1816 revolves around terminations: They've increased measurably, although as a percentage of the overall workforce it's no stampede. For example, Lasseter says the Department of Human Services fired 212 employees the year before reform, for a .9 percent termination rate. In 2000, the termination rate was 1.6 percent. While that's almost twice the pre-Act 1816 rate, Lasseter says, "I'd still argue that 1.6 percent is pretty low in terms of telling someone it's just not working out."

Effects of the Reforms

The Basics

The changes wrought by Act 1816 are huge, and their impacts will grow as the size of the state's unclassified service continue to swell. These include:

- Dramatically more responsibility for agency personnel staff and hiring authorities
- More flexible recruitment
- More timely hiring
- Dramatically more flexibility in pay and promotions
- Dramatically more flexibility in reassignment and downsizing

- Significantly less formal protection for employees in the case of reassignment, downsizing, discipline, and dismissal
- Increased interagency competition for talented staff

General Observations

One of the more interesting people to talk to about the changes in Georgia is Mike Sorrells, now head of personnel for the state's Department of Juvenile Justice. In 1997, Sorrells was an upper-level manager in the Merit System and among the most skeptical about what was going to happen in the wake of Act 1816.

In a 1997 interview with this author for a *Governing* magazine story on Georgia's evaporating Merit System, Sorrells expressed sympathy for the frustration that many agencies felt around civil service. However, in Sorrells' view the state had not only thrown the baby out with the bathwater with Act 1816, but also had potentially thrown the baby into the path of an oncoming legal freight train. He expressed the fear that July 1, 1996, was considered "yahoo!" day for managers in Georgia, meaning that managers would be running amok when it came to rigor and discipline in the essentials of personnel administration.

Not that he thought Georgia would succumb to wholesale abuses by way of patronage hiring and firing; he just worried that with no overarching quality control, personnel management in the Peach State would deteriorate. While he says those worries have been alleviated somewhat, he still wonders about the more subtle legal issues around hiring, promotions, compensation, and dismissal. In particular, he says, lack of oversight of compensation and pay has led to a system of compensation anarchy.

Having said all that, though, Sorrells now says he wouldn't want to go back to the old days. But his legal concerns raise interesting questions about the future of Georgia's personnel system. One of the fundamental rationales behind passing Act 1816 was that regardless of what formal protections the state did or didn't extend to employees, they would always have the courts as an avenue of recourse in the event of arbitrary or discriminatory personnel practices.

In a 1997 *Governing* interview, the Georgia Department of Transportation's head of personnel, Bill Dunn, argued that the courts offered ample protection to employees, and that agencies had better be aware of their legal exposure when it came to managing personnel professionally: "There are a number of things in law we're going to have to abide by. If we don't treat people fairly, then [employees] have ample recourse to respond through the legal system, and it's been my unfortunate experience that in most cases they're not real reluctant to use it." Dan Ebersole, then Merit System Commissioner, was even more blunt: "For those who now think you can eat all you want at the personnel candy store, I just have a few words of caution: Be careful or you're going to be sued."

To date—either as testimony to the professionalism of Georgia's agency personnel directors or a lack of legal initiative by aggrieved former state employees—the state's Law Department says there have been no lawsuits related to discriminatory or arbitrary personnel practices, terminations in particular.

In the same vein, there has been no evidence of widespread abuse of the new system to pursue wholesale patronage hiring. According to a recent series of articles in the *Atlanta Journal and Constitution*, there are plenty of individual and high-level examples of patronage hiring in the state. The articles cited, in particular, plum appointments to the state Board of Pardons and Paroles and within the Department of Corrections (which one wag dubbed "the Department of Connections"). In fact, what the paper chronicled was arguably (if admittedly unsavory) run-of-the-mill patronage practices not particularly different from those in any other state, even states with strong civil service laws. The paper found no systematic pattern of wholesale patronage abuse through the ranks of government employment.

In fact, the Georgia Department of Corrections actually has at least one clear and strongly enforced anti-nepotism rule; close family members can't directly supervise one another. But as Peggy Ryan argues, there's nothing inherently wrong with family working together in the same facility. Indeed, in some places—rural areas in particular—where the pool of potential corrections officers is very limited, it may be unavoidable that family

members work together in the same facility. “Our facilities are predominantly in rural areas, and a lot of employees are kin to one another,” says Ryan.

According to a University of Georgia report on the impacts of Act 1816, there’s been no decipherable pattern of abuses. One experienced personnel director in a large agency reports that he can “count on the fingers of two hands” the number of questionable hires he’s seen under the current administration.

While even that admission might still shock some purists, the same personnel director argues that that’s a pretty powerful statement of basic integrity, especially for a large agency.

In fact, the downside to the Georgia system seems to be, as Mike Sorrells points out, more-subtle impacts of a freewheeling personnel system, in particular the lack of uniformity in what various departments—and even divisions within those departments—pay employees for like work. This, say agency personnel directors in Georgia, has led to pressure on them to create new job titles that would allow offering certain individuals higher salaries for work that in other state agencies—or even in other divisions within a department—is paid less. “I found myself frequently on the defensive, mainly in the area of salaries,” says Reuben Lasseter. “Someone in one programmatic division would tell me, ‘We need to pay this person \$65,000 if we want to keep them,’ when someone doing similar work in another division was only making \$50,000.”

If there’s anything he missed about the old system, says Lasseter, it was the convenience of being able to blame the Merit System whenever a request for special treatment dropped onto his desk. The new difficulty for personnel managers in Georgia, he says, is the buck now pretty much stops with them.

Reflections on the Georgia Experience

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There is no doubt that the state of Georgia implemented a rather dramatic set of civil service reforms in the mid-1990s. The reforms focused on the removal of civil service protections from employees, the decentralization of authority for personnel policy, and the establishment of a new performance management system built largely on a merit pay system. Four years after the reforms, most employees were quite pessimistic about the outcomes of that process, although their perceptions did depend to a considerable extent on whether the employees were in a classified or unclassified position. Employees who were in unclassified positions, and who as a result had few job protections, expressed views that were much more optimistic about the personnel policy changes than employees who were in traditional classified positions. These differences were present regardless of the length of time the worker had been with the state, or the worker's race, gender, age, level of education, supervisory status, or employing agency. Indeed, the impact of being in an unclassified position rather than a classified position on perceptions of the reforms is remarkably consistent. However, one must ask the question of whether it is a difference that makes a difference. Large proportions of unclassified employees still report negative views of the reforms. Perhaps the best that can be said is that they tend to be less skeptical of the reforms than their classified colleagues.

If there is one inescapable conclusion to be drawn from the above, it is that systematic and ongoing evaluation of civil service reform is essential for a wide variety of reasons. Needless to say, evaluation is seldom a feature of civil service reform initiatives on any level of government. Georgia is no exception. In the case of the state of Georgia, these data and findings provide a useful baseline against which to compare the results of follow-up surveys designed to track employee attitudes and perceptions. If those in unclassified positions actually bring a more favorable or supportive orientation to reform than their classified counterparts, the "organizational culture" effects of this difference should be far stronger in 2002 or 2003 than in 2000. The state bureaucracy is increasingly dominated by unclassified positions. A follow-up is also needed to assess the impacts of recent changes to the original legislation, changes designed to make state pay scales more market competitive and to allow incentives in the form of one-time bonuses. The findings discussed here are suggestive, but that is all they are. Follow-up surveys at regular intervals are needed.

Source: "Classified vs. Unclassified State Employees in Georgia: A Difference that Makes a Difference," Paper prepared for delivery at the 2002 Annual Meeting of the American Political Science Association, Boston, Massachusetts, August 29-September 1, 2002. Copyright by the American Political Science Association. Paper will also appear in Kellough, J. Edward, and Nigro, Lloyd G., eds. Civil Service Reform in the States: Personnel Policies and Politics at the Sub-National Level. (Forthcoming) (Albany, N.Y.: State University of New York Press).

Civil Service Reform in Florida

Impetus for Reform

Florida last year passed a sweeping overhaul of civil service and personnel administration in the form of Service First, which, if not dynamite under the state's civil service statute, certainly was powerful enough to set off some serious political fireworks in the Sunshine State.

Service First, which was signed into law on May 14, 2001, made three profound changes to Florida's personnel practices: It converted all supervisory positions in the state personnel system to at-will status; it substantially simplified the state's classification and compensation system by broadbanding job titles and pay; and it eliminated the concept of seniority for *everyone* in the state personnel system (everyone, that is, except police, fire, and nurses—exceptions that will be discussed in the final section of this report). The suspension of seniority goes for all classified employees (unclassified employees by definition have no seniority rights) regardless of when they were first hired. The bill was an initiative of Governor Jeb Bush, whose original intent was to remove *all* state workers from civil service, making every employee in the state personnel system at will.

In the end, such a sweeping rollback of coverage turned out not to be politically feasible, so in that respect, Florida's initiative isn't quite as ambitious as the rollbacks in Texas and Georgia. But while the bill on the surface might not appear to be as dramatic as those in the Lone Star and Peach states, in many ways it has had the same ultimate effect. What lawmakers in Florida seemed to have

decided was that if it's not possible to eliminate civil service coverage for all state employees outright, then the best thing to do was to drastically reengineer what that coverage amounts to.

Florida has something of a history in regard to civil service reform. In the early 1990s, the Florida legislature made national headlines when it voted to sunset its civil service system. It sounded like a bold move, except that there was a significant caveat that went along with the momentous decision: The sun would start setting on civil service in Florida only if and when the legislature established some new system for staffing up statewide. Inasmuch as the Florida Constitution requires a civil service system, and inasmuch as no high-level politician in the state seemed interested in expending any political capital on developing some new system or other, nothing much happened.

Nothing, that is, of a very pyrotechnic nature. But, in fact, Florida was busy making some other important changes to how it handled personnel administration. On the one hand, it has been decentralizing civil service, pushing down more personnel administration autonomy and authority to individual agencies; on the other, it has virtually eliminated written exams for all positions statewide. Instead, the state now emphasizes "knowledge, skills, and abilities" along with references and interviews, a method of screening that has the attendant effect of negating anything like a "rule of three," while also virtually eliminating the notion of veterans' preference (more on the impact of civil service reform on veterans' preference in the final section of the report).

Still, with the exception of cutting loose a small handful of agencies to do some experimentation with less restrictive personnel practices, the major reform push of the 1990s fizzled; the fundamentals of civil service continued on pretty much as they had since first being adopted in 1955. Then came Governor Jeb Bush.

That Governor Bush would push civil service reform should have come as no surprise. As Florida's Secretary of Commerce back in 1987, Bush—a conservative politician with a businessman's bent—had sent to all department heads a memo suggesting that the state adopt a more private sector approach to personnel practices, including at-will employment for all state workers. It would be 13 years before he could dust off the idea and seriously push it. Once in office, he didn't waste much time in doing just that. Halfway through his first gubernatorial term, he teamed up with the Florida Council of 100 (a group of influential Florida businesspeople) and Florida TaxWatch (a business-financed research group) to come up with a study on the state's civil service system and how it could be improved.

The result was the report *Modernizing Florida's Civil Service System: Moving from Protection to Performance*, published by the Florida Council of 100 in November 2000. The report wasn't subtle about the council's view that government personnel management needed to be run more on a private sector model. "Managerial practices in state government have not kept pace with advances in the private sector," the report notes in its preamble. "Chief among the constraints to effective and efficient government performance is the state's human resources model." Particularly offensive to the council was the notion that a state employee enjoyed a "property right" with regard to a state job—a right, said the report, "which can be removed only through a complicated web of restrictions called 'due process.' "

The report railed against bumping, the Public Employees Relations Commission (which hears employee appeals of adverse management decisions under civil service), the state's classification system (including tightly written job descriptions), and its compensation policies. While the report didn't contain much hard evidence of sweeping

negative impacts of civil service—it includes a handful of anecdotes—its message and tone were clear: Dump civil service, and do it now.

In particular, the governor and the legislature seemed to take to heart the report's cry for a more private sector approach to personnel practices in the state. And so policy makers went to work fashioning a bill that would try to put the state's personnel system on a much more private sector footing.

Current Personnel Administration

Of the three states that have eliminated civil service protection for some significant portion of employees, Florida's effort is certainly the messiest. Rather than eliminate civil service altogether, Florida has by fits and starts been trying to turn civil service law into as hollow a shell as possible. But messy as it might seem, the Florida reform efforts have essentially been as effective as the abolitionist approach in Texas and Georgia: Florida now has a civil service system that arguably exists in name only.

The job of reform that had begun through such low-key changes as decentralization and liberalized testing policies was finished by Service First, which struck at the heart of civil service's most cherished principle: seniority. And unlike in Georgia, there was no phase-in under Service First whereby pre-reform employees would continue to be fully covered by the old system but not new hires. Every Florida employee lost all seniority on July 1, 2001.

Bush's original wish that all employees be made at will—while popular in the legislature's lower house—proved too drastic for the Senate. It was there that a compromise was hammered out: Some 16,000 management and supervisory staff previously covered by civil service would be placed in the Selected Exempt Service and would serve at will. That would leave about 120,000 employees in the state personnel system covered by civil service. While management says that *only* supervisory positions were converted, the American Federation of State, County and Municipal Employees (AFSCME) Florida Council 79—which represents the bulk of state employees in Florida—says the reach of the at-will conversion scraped as closely as it could to frontline titles.

Whereas the reforms in Texas and Georgia faced little opposition from organized labor (such as it is in Texas and Georgia, neither state being known as a bastion of labor activism), AFSCME Florida Council 79 fought the Florida reforms with everything it had. As part of negotiating its 2001 master contract, AFSCME argued that Service First represented changes that could not be unilaterally imposed by legislative fiat; they had to be bargained. The matter officially went to impasse, and a neutral special master was brought in to mediate.

Special Master Mark Sherman, professor of management at the University of Houston, was not overly complimentary of the Bush scheme, labeling it, in fact, “Service Worst.” He was especially critical of the administration’s efforts to strip civil servants of seniority rights, which he thought would have the opposite effect of that espoused by Bush: Rather than attract the best and brightest, it would repel them.

But the political stars in Florida were already aligned, and Service First rolled inexorably forward. The legal challenges to Service First filed by AFSCME 79 worked their way to the Florida Supreme Court, which finally ruled in Bush’s favor: The provisions of Service First did not represent issues that had to be collectively bargained.

While the effects of Service First are just unfolding in Florida, it’s no stretch to say that the impacts on personnel administration in Florida will be twofold: Civil service as a formal set of controlling rules that dictate an agency’s every move has dramatically receded in the Sunshine State. Meanwhile, collective bargaining is likely to take a significant step up in prominence and importance as public sector employees sense reduced protection. In fact, AFSCME officials already report a significant uptick in dues-paying members. (Florida is a so-called “right-to-work” state, which means that state employees in Florida cannot be compelled to join [pay dues to] the bargaining units that represent them. While the union is obligated to represent all employees in a bargaining unit, dues payments to whatever union represents that employee are entirely voluntary.)

Recruitment and Hiring

As mentioned earlier, hiring in Florida had already been significantly decentralized before the Service First initiative and reliance on testing drastically scaled back. Even for titles like entry-level prison guard, the state uses knowledge, skills, and abilities, says Percy Williams, head of personnel for the state’s Department of Corrections. Williams says hiring is handled regionally, and the only tests qualified guards have to pass are a background check and drug screen.

While the state does operate a centralized job bank for all statewide openings (www.myflorida.com), part of the Service First reforms included substantial privatization of some key HR functions. Advertising job openings, as well as some of the recruitment and training done in Florida, is being handed over to a private contractor.

The sum of all the changes in Florida is—as called for by the Council of 100’s report—a substantially private sector model for recruitment and hiring. Managers are no longer tethered by lists of “minimum qualifications” for applicants. Nor do they have to administer and score written tests. There’s no minimum posting time for job openings. Rather, agencies are free to recruit, screen, and hire as they see fit. Hiring authorities can make job offers on the spot.

Depending on the position, Gary Mahoney, personnel and human resources management chief for the Florida Department of Health, says his agency will use the state job bank, advertise in newspapers and trade journals, attend local job fairs, and post jobs to specific Internet sites, among other strategies for recruiting people. The department is even authorized to help potential candidates with repayment of school loans or to secure visas to work in the United States.

According to David Ferguson, head of personnel for the Florida Department of Transportation (FDOT), his agency piloted the scrapping of both tests and minimum qualifications for jobs way back in 1994. In their place, FDOT developed knowledge, skills, and ability sets (KSAs) for various FDOT positions. In the case of the pilot project, such changes were actually worked out in cooperation with organized labor, says Ferguson, noting that AFSCME had seri-

ous reservations about the changes at the time. “They told us, ‘Your managers are going to write the KSAs so they can select their buddies,’ “ says Ferguson. “We haven’t seen much of that. In fact, I think allowing managers to do KSAs has been one of the best changes we’ve seen.”

Pay Raises and Promotions

As part of Service First, the state’s Department of Management Services was handed the job of completely overhauling Florida’s compensation and classification system. The result has been dramatically reduced job titles in Florida and simplified and more flexible pay structures. More than 3,300 titles were collapsed into 38 occupational groups (such as “building and grounds cleaning and maintenance” as a catchall for a wide number of custodial jobs and “office and administrative support” for a wide variety of clerical jobs). There are now 25 pay bands covering those occupational groups, bands that represent a high and low salary range. There are no longer any formal, discrete pay “steps” that employees automatically chunk up with seniority. “I don’t miss the fact that you used to have to promote someone from a Clerk 1 to a Clerk 2 or Clerk 3 just to get them a raise,” says Ferguson.

Under Florida’s current system, raises can come in one of two ways. The most common and sweeping are through cost-of-living increases negotiated either through collective bargaining agreements or dispensed by the legislature. Over the past few years, raises have ranged from nothing to 3 percent annually, although some bargaining units have won higher increases. Managers also have the power to raise an individual’s pay above and beyond such across-the-board annual increases. Those merit-based raises must be based on one or more of seven criteria (the state dubs this system of winning raises “pay for performance” instead of “pay for attendance”):

- superior proficiency
- added duties and responsibilities
- education and training
- reassignment
- transfer

- matching a competitive job offer
- pay equity

Under Service First, employees may also share in cash bonuses—either individually or collectively—for ideas or activities that save the state documentable amounts of money.

As with hiring, promotions in Florida are now based on knowledge, skills, and abilities, and not on formal testing. Managers, working with their agency personnel offices, have a free hand to promote employees as they see fit. Seniority, which played some role in promotions in the past, will no doubt recede in importance as a criterion for advancement with the advent of Service First. That’s the way it should be, say personnel executives like Williams at Corrections: “We get in these fast-learning young people who come to the job with all kinds of skills already in hand, particularly in the area of modern technology.” Being able to move them up quickly and expeditiously in the organization is an important way to retain such talent, he says.

Downsizing and Discipline

Service First dramatically altered the downsizing and employee transfer landscape in Florida. With the elimination of seniority, management can target people or positions for downsizing as it wishes, and employees have no right of appeal. It is one of the changes in Florida that organized labor finds particularly disturbing, and they are fighting it in court using a downsizing at the state’s Department of Juvenile Justice, where 200 of the department’s most senior workers were recently laid off. The layoffs were part of an overall statewide workforce reduction being pursued by Governor Bush. (Savings from such cuts can be illusory, however, as in some cases the state is paying private sector contractors to pick up some of the work.)

The job-title broadbanding initiative, meanwhile, dramatically simplifies efforts to reorganize and reshuffle staff. Tightly written job specifications have long been the bane of managers trying to redeploy staff. (Under civil service rules, employees can’t be arbitrarily shuffled out and in of different job titles; they can only be moved to a position with a similar title.)

What system agencies use to discipline employees is now up to each. According to Gary Mahoney at FDOH, his agency uses a system of progressive discipline. In an e-mail response to a set of questions on FDOH discipline practices, Mahoney writes: “Generally, we issue verbal reprimands, written reprimands, suspension (or second written reprimand), then dismissal (progressive discipline); however, each case is based upon its own merits, and we no longer are required to base decisions on past practice. We do not utilize or endorse the concept of positive discipline; however, we do endorse and practice progressive discipline, which provides employees an opportunity to correct improper behavior.”

As for terminating employees, life for managers is clearly now much simpler when it comes to the 16,000 positions that were placed in the Selected Exempt Service. Employees in those positions have no right of appeal when it comes to layoffs and reorganization. The 120,000 employees left in the classified service, likewise, have reduced recourse, although they continue to enjoy the full protections afforded by grievance procedures established by collective bargaining agreements. Employees in the classified service may also appeal adverse job actions—such as demotions, suspensions, or termination—to their agency head, the Public Employee Relations Commission, or the District Court of Appeals. As mentioned earlier, layoffs and transfers are not appealable. Employees in the Selected Exempt Service have no rights of appeal, period.

Effects of the Reforms

The Basics

The reforms in Florida have been the result of a series of changes, capped off by the passage of Service First. The changes include:

- more responsibility for agency personnel staff and hiring authorities
- more flexible recruitment
- more timely hiring
- more flexibility in pay and promotions
- more flexibility in reassignment and downsizing

- less formal protection for all employees, especially the newly swelled ranks of unclassified employees, when it comes to all personnel actions, from reassignment to downsizing, discipline to dismissal

General Observations

The dust is still settling in Florida on Service First, but clearly management won significant new flexibility in how it administers personnel. Making 16,000 supervisory and management staff at will has certainly added a new measure of flexibility (and, management would argue, accountability) to management within supervisory ranks in the Sunshine State.

With all state employees stripped of seniority, “bumping” is now a thing of the past; managers don’t have to face the nightmare of cascading bodies through their organizational charts when contemplating downsizing or reorganization. Meanwhile, broadbanding of classification and compensation will allow managers to move and motivate employees through more flexible pay and job assignments.

That, of course, is if management chooses to use its new powers wisely and well, and organized labor in Florida is arguing strenuously that abuses have already begun. Unions cite the termination of senior employees, a strategy labor says is being used rather coldheartedly to cut high-salaried staff. Such a strategy, charges labor, is not only a slap in the face to longtime and loyal employees, it is penny-wise and pound-foolish from the standpoint of losing valuable institutional memory. Setting aside the moral question of a state government’s obligations to longtime employees, what the targeting of senior staff will cost the state in the way of talent and experience remains to be seen.

But clearly those in Florida who have been advocating a more private-sector-model personnel system have substantially achieved those goals. As characterized earlier, the state may still have a civil service system, but it’s a system that has lost a lot of its bite.

Implications for Other States

In reviewing the changes implemented in Texas, Georgia, and Florida, two obvious questions come to mind. The first is whether the three states are better off for the reforms—keeping in mind that some interests don't see the changes as “reforms” at all, but significant steps backward in employee rights. The second question is whether other states might feasibly follow suit, assuming policy makers decide that what's occurred in Texas, Georgia, and Florida is worth trying to copy, either in part or in whole.

Good or Bad?

It is clear in looking at Texas, Georgia, and Florida that there are potential advantages to considerably deregulated personnel systems. The ultimate measure of any personnel system is, of course, the quality and efficiency of services that a state is delivering, since that is a direct reflection of the caliber of employee working for the enterprise.

But to tackle that kind of assessment of a personnel system is a hazardous proposition, indeed, because different states offer different services and deliver them under different circumstances. To say with some authority that state employees in New York are measurably worse than in Texas and that the reason is different personnel systems would require a small army of public administration investigators using measurement instruments calibrated to inhuman accuracy.

What's more feasible is to measure the satisfaction of the “customers” of personnel systems in the

“reformed” states—the personnel staff and other hiring authorities whose job it is to find, hire, and retain competent workers in their agencies. In that regard, states like Texas, Georgia, and Florida have a clear edge. Ask almost any state government manager in almost any of the other 47 states about what it's like to find and hire good people, and what you'll invariably hear is a long list of complaints about the complex, convoluted, and snail's-pace system in place. Ask personnel officials or hiring authorities in Texas, Georgia, or Florida how they like their style of personnel management, and you'll hear how relieved they are *not* to have to suffer the dictates of a highly structured, centralized, rule-driven personnel system.

And so speed—and its close companion, flexibility—become the default measures for how people tend to assess personnel systems. On the hiring side, managers in Texas, Georgia, and Florida are a much more satisfied group than their counterparts in states with extensive civil service rules. Under Florida's new classification and compensation system, says Ferguson, head of personnel for the Florida Department of Transportation, “we have much more flexibility in what can do with pay and recruitment.” Texas personnel managers report that they can fill critical positions in a matter of days. Lasseter, former head of personnel for the Georgia Department of Human Services, says time to hire was cut from months to weeks under the new system.

Likewise for firing poor performers. The *first* thing that Georgia personnel officials note about the at-will status of employees is that it's much simpler to

get rid of poor performers. Texas personnel managers also note that dealing with non-performers is easier, although they also argue that their decentralized system puts a lot of pressure on them to ensure that managers in the field are trained in the whole range of progressive discipline skills designed to help salvage employees worth saving and to prevent arbitrary and capricious terminations.

When it comes to Florida employees, at least in the Selected Exempt Service—who have no external rights of appeal—Ferguson says, “I’ve never agreed with the contention that you couldn’t fire people in the public sector. We’ve always been able to get rid of bad apples. But it’s somewhat easier in Florida now.” Does he worry about abuses? “We may have some managers who think, ‘Oh, here’s my chance to get rid of Joe and Dave,’ but if you fire someone in the Selected Exempt Service, that has to come through my office.”

Also much simplified and streamlined are major downsizings and reorganizations. In states with traditional civil service systems, such job actions can be a nightmare as personnel officials try to figure out who will be bumping whom (and whether, in fact, senior staff even want to bump into another job) and where exactly employees might transfer given tightly written job descriptions and duties.

Those sorts of domino-based staffing overhauls are a thing of the past in Texas and Florida and are quickly receding into the past in Georgia. In fact, under Florida’s new broadband classification system and with the elimination of seniority, the Florida Department of Management Services (DMS) calculates that the average length of time per personnel action will be reduced by 70 percent, in large part thanks to the minimal bureaucratic consequences of job shifts and job actions.

As for the predicted abuses of a freer, more flexible system (i.e., wholesale patronage firings and hirings), so far there has been no convincing evidence presented of widespread, systemic abuse in any of the three states. Texas has witnessed multiple changes in governors with no apparent massive sweeping out of career staff in favor of political friends and family. Georgia has experienced one change in governor over the course of its reforms—

Miller to Barnes—but both are Democrats, so the proposition that a switch in party at the gubernatorial level might trigger a wave of hirings and firings has yet to be tested. The potential patronage impacts of a more private sector system in Florida, likewise, have yet to be tested. If there’s any pattern of “abuse” in any state, it is in Florida, where organized labor charges that the state is using the repeal of seniority to fire longtime, higher-salary career staff.

Nor has the decentralized approach led to an appreciable increase in legal woes, at least not in Georgia and Texas. Georgia, which would seem the most likely target for lawsuits given its almost anarchistic new approach to personnel management, has seen no suits at all, according to state officials and close observers. Texas officials say they see their fair share of equal employment opportunity and discrimination cases, but they’re anything but epidemic. Florida, on the other hand, with an active, angry, and adversarial union in AFSCME Local 79 (at least when it comes to the current administration), will be the most likely source of lawsuits challenging the more laissez faire personnel system. It’s too early to tell how such challenges will play out.

Aside from Florida AFSCME Council 79’s complaints (which are not to be dismissed lightly), worries about a less centralized, less rule-driven system really do seem to revolve around the increased burden for higher performance that it places on personnel managers and hiring authorities at the agency level. But such complaints are considered hollow indeed to an agency personnel staffer like the one recently interviewed in New York who is tearing his hair out because he can’t give his longtime secretary a raise until she passes a typing test; or the one interviewed in Massachusetts who isn’t allowed to hire even an extraordinarily qualified job candidate for a key position until the job opening has been publicly posted for four weeks.

Can It Be Done in Other States?

As mentioned earlier, a number of states have been chipping away at traditional civil service systems. Probably the most significant changes have come in the area of testing, titles, and pay.

Multiple states have reduced their reliance on formal written tests as a way to screen job candidates, particularly for higher-level, professional positions. For example, in some states, for some jobs, any candidate with a bachelor's degree is considered to have "passed the test" and may be placed on a "certified list" of qualified candidates. Washington State has been one of the leaders in eliminating formal testing.

Meanwhile, a host of states have worked to reduce the number of job titles harbored in their classified service, going to more general job "families." Michigan was an early practitioner of broadbanding job titles, and since Michigan's reform, the number of job titles within a given state's classified service has actually become one of the more basic benchmarks for evaluating a merit system's complexity versus responsiveness (fewer is better). Meanwhile, quite a few states have also switched to broadbanding pay—at least for certain titles—in order to win some flexibility in how employees are compensated. (Much of the more flexible approach to pay was driven by the need to find, hire, and keep information technology staff; in some states the flexible approach has expanded to other hard-to-fill job classes like engineers and nurses.) Wisconsin, which operates under a fairly traditional civil service system, was a pioneer in the push for more flexibility in how it compensated hard-to-find and hard-to-keep employees, an effort that went forward through some hard (and sometimes bitter) bargaining with organized labor.

But chipping away is one thing, virtually eliminating civil service is quite another. Only one other state has in the past flirted with the virtual elimination of civil service, and that was Massachusetts in the early 1990s with the new gubernatorial administration of Bill Weld. As Weld discovered, Massachusetts is a tough state in which to try to set dynamite underneath laws protecting public employees; organized labor has a tight enough grip on Beacon Hill. Not only that, but early drafts of the Weld overhaul plan called for elimination of veterans' preference, which galvanized yet another politically powerful constituency in opposition to the bill. The proposal to eliminate veterans' preference was dropped in later drafts of the reform, but it was too late. So much opposition had built up to the plan, that the overhaul was never even introduced into the legislature.

Organized labor has long been the most powerful constituency arrayed against any sweeping changes in civil service. While it is seniority, in particular, that labor will fight most fiercely to protect, for years there has been almost knee-jerk opposition to any major reform. In Wisconsin, organized labor fought broadbanding of pay, even though the plan would ultimately result in some members of the state's white-collar union making *more money*. The mere idea that management would have some flexibility in how it compensated employees was anathema to the union.

Given organized labor's traditional opposition to civil service reforms, the chances of major changes to merit system law is typically inversely proportional to organized labor's hold on any given state legislature. New York, Massachusetts, New Jersey, California, Oregon, and Illinois are not going to follow Georgia's lead on civil service reform—and probably not Florida's, either.

However, there are signs that in some places, at least, organized labor is willing to make a trade: civil service reform for enhanced collective bargaining rights.

In fact, only one other state currently stands poised to effect changes in civil service law as potentially sweeping as in Texas, Georgia, and Florida, and that is Washington. Early this year, Washington lawmakers passed legislation that turns an extraordinary amount of power over to the state's director of personnel. That power includes the ability to rewrite the civil service statute wholesale. The tradeoff with labor was straightforward enough: Unions won the right to bargain for benefits and wages. (Washington State's scope of collective bargaining had been based on the federal model, where employee unions can't negotiate pay or benefits.) The union's thinking was that enhanced coverage of collective bargaining meant a reduced need for heavy civil service rules and oversight. Washington's reforms will take a few years to play out, but the state will be one to watch in the upcoming years.

In states without collective bargaining, it is conceivable that organized labor might try to work out a similar horse trade: get rid of (or substantially roll back the influence of) civil service in return for the right to negotiate labor contracts.

What are the chances that other states will follow Texas, Georgia, and Florida? Certainly there are now three solid models for gauging the real consequences of significantly scaled back merit systems. Obviously, the degree to which reforms move forward will always be a function of some combination of politics and management's commitment to pushing change. But with Texas, Georgia, and Florida in full bloom—and Washington about to bud—it is arguable that more states may be tempted to look at more sweeping changes in how they manage personnel.

Reflections on Reform

Virtually every agency personnel director interviewed for this report expressed the strong opinion that there was life after civil service reform and that it was considerably better. “I’d never want to go back,” was the consistent refrain from those personnel directors who had lived in both pre- and post-civil-service-reform worlds. For those agency personnel directors who had never operated under the traditional civil service, they said the horror stories they’d heard from colleagues in other states was enough to make them glad they operated in a system with considerably more freedom.

At the same time, though, agency personnel staff did express the general sentiment that life was in some ways harder: With expanded discretion had come increased responsibility for running a professional personnel management shop, which included having to stay abreast of both legal and legislative activity around personnel. In Texas, in particular, agency personnel directors said the multiple rules and regulations that regularly poured forth from the legislature each biennium made their job more complicated and occasionally quite frustrating. One who had worked in personnel administration in another state said there were some days when he actually longed for the cut-and-dried rules of civil service: “The thing here changes every two years; you don’t know what’s going to happen.”

Focusing on the Nitty-Gritty

Nothing that happens in Texas when it comes to legislative action around personnel management is especially earth shaking, though; it’s more tweaks

and twists of the system, from restrictions on pay to changes in benefits. In fact, it is the more nitty-gritty aspects of personnel administration that come up as concerns for those who now operate outside of the traditional civil service.

To the extent that an absence of civil service has caused problems in places like Texas and Georgia, it seems those problems have come not in the form of the terrible abuses that some predicted but rather in the day-to-day management of workforce issues. In Georgia, for example, the lack of consistency in compensation and classification policies statewide was raised as a significant problem by virtually every agency personnel director interviewed. They seemed to long for a Texas-style system where there was some clear oversight and guidelines that brought coherence and consistency to state pay.

Agency personnel directors in Georgia reported a situation somewhat akin to running a professional sports franchise, where there was constant pressure on them to boost salaries for key players and where talent raids by other agencies with money to burn for higher salaries were becoming increasingly common. On a more global level, the pay disparity issue has also led to concerns that Georgia might be vulnerable to equal-pay-for-equal-work lawsuits at some point down the road.

But, again, the more serious concerns about civil service repeal—in particular pressure to hire and fire based on political ties—seem not to have materialized in Texas or Georgia.

Florida's reforms are too early to judge in that regard, but if any of the three states has some political taint to how it went about civil service reform, it is Florida. In part that's because there was much more organized opposition to Service First than there was to the repeal laws in Texas and Georgia. For that reason—legitimately so or not—there were far more visible charges that an underlying aim of the Bush plan was to allow the governor a free hand to make political appointments throughout management layers in state government. To date, there's less evidence of that than there is that the Bush administration is simply using the law to take aim at senior employees at higher salary levels as a cost-cutting device.

The Battle over Seniority

That attack on senior staff, in particular, has led organized labor to battle Service First in the courts. Indeed, for organized labor, no protection extended to public employees through a civil service system is more sacrosanct than seniority. Take the most complex and convoluted civil service statute in the country, with all its rules and all its stipulations, and the basic battle when it comes to reform will always boil down to the enhanced job rights that the statute grants to more-senior employees, rights that gather strength with time on the job.

One of the traditional and less ideological reasons given for why government employees should be granted privileges that accrue with seniority is that public sector employment has traditionally not paid as well as work in the private sector. And so, the accepted reasoning went, the enhanced job rights (and frequently benefits) were an offset, a way to attract good employees who otherwise would be lured away by higher private sector salaries. (The whole issue of compensation will be taken up in more detail later, but given how poorly paid many public employees are today, many argue that enhanced job protection as a recruitment strategy is as important now as it ever was.)

The other down-to-earth argument in favor of seniority is that it allows government to hang on to institutional knowledge that might otherwise be lost. While there is certainly some legitimacy to that point of view, opponents of seniority rights offer the counter-balancing argument that seniority

also means that government has to carry more than its fair share of clock-punching deadweight.

The more intriguing—and powerful—argument for enhanced job protection for public employees, however, is that a significant portion of them operate in a regulatory or law enforcement capacity that has the potential for putting them at odds with any given current political power structure. Absent strong job protection, environmental regulators, for example, might be loath to enforce regulations when it comes to a large company with close ties to a particularly powerful legislator or governor. But with the protection that comes with seniority, that same official can move with some confidence that enforcement won't result in adverse career consequences.

The Politics of Personnel Reform

In that regard, Florida's reforms are worth a closer look. As it turns out, *not all* state employees are covered by Service First: nurses, firefighters, and law enforcement officials were exempted from coverage. The argument used by law enforcement in gaining its exemption was that seniority protection was absolutely essential to officers, who might find themselves in the position of having to ticket or even arrest someone with powerful connections to a current administration. But if that rationale is valid for police officers, then it does raise the question of why it wouldn't be equally valid for all state employees in a regulatory capacity—whether they work for a licensing or regulatory board or work in an agency with broad regulatory responsibilities like environmental protection.

Enter nurses and firefighters. Firefighters could probably make the same claim as police that occasionally they're called on to accept some inspection and law enforcement responsibilities. Nurses, on the other hand, are paid to help people and serve in no regulatory or law enforcement capacity whatsoever.

So what else might the three special job classes have in common? Mark Neimeiser, head of AFSCME Florida Council 79, has his own theory: political clout. Unions representing law enforcement, nurses, and firefighters all supported Jeb Bush in his gubernatorial campaign and were

rewarded with the exemption. Council 79, on the other hand, supported Bush's opponent, which, says Neimeiser, explains the Bush administration's disparate views on seniority rights for those who write speeding tickets and those who cite factories for environmental infractions.

In regard to such special exemptions, Georgia has the strongest claim to being consistent. There are no special exemptions or exceptions for specific classes of employees in Georgia when it comes to seniority or any other civil service rights or privileges: Nobody hired by the state after July 1, 1996, is covered by civil service, no matter what their job, period.

In Texas, by contrast, all state employees serving in a law enforcement capacity are covered by some form of civil service, whether they're park rangers, border patrol, or Texas Rangers. Not only are the privileges of seniority enforced for those employees, but also promotions are decided through formal testing rather than the more subjective "knowledge-skills-and-abilities" standards applied to other classes of state jobs. The practical reason given for the differential treatment in Texas is that experience is especially important in such a high-risk, high-stakes job as law enforcement. The more cynical reason given for granting such exemptions: the traditional political clout of law enforcement in the Texas legislature.

However one chooses to view such exemptions—as sensible personnel policies with solid practical grounding or purely as a reflection of the political clout of a special job class—the differential treatment does at least raise questions about the political purity of civil service reform in Texas, and especially Florida, versus what occurred in Georgia.

The Shifting Legal Landscape

Such exemptions also seem to undercut one of civil service reform advocates' key arguments: In today's legal climate the courts stand ready as the bulwark of defense of any public employee wrongly terminated, and so civil service rules represent an unnecessary layer of protection for civil servants. If the courts are ready to offer such protections, why the special exemptions?

In the Florida Council of 100 report advocating reform, *Modernizing Florida's Civil Service System: Moving from Protection to Performance*, the council argues: "Some might fear that dismantling protected-status employment would re-ignite old abuses. This fear is not justified. A whole body of federal and state statutes and associated case law—such as federal and state civil rights laws, whistle-blower protection acts, state conflict of interest statutes, and the Americans With Disabilities Act—exist today where there was very little in place in 1955 [the year that Florida enacted civil service]."

While state statutes certainly stand as potential protection for employees, how reliable federal court protection might be is considered by some legal experts to be a very open question right now. That's because of a set of recent U.S. Supreme Court decisions reaffirming state sovereignty. In an intriguing article for the summer 2002 issue of *Review of Public Personnel Administration* (the whole issue is devoted to Georgia's personnel overhaul), Charles Gossett, director of the master of public administration program at Georgia Southern University and an expert on the legal implications of discrimination in public sector personnel administration, sets out a provocative but plausible hypothesis: Given the recent trio of U.S. Supreme Court decisions bolstering the notion of state sovereign immunity, public employees who try to take a state to federal court may, ultimately, find a U.S. Supreme Court unsympathetic to their cause.

As Gossett points out, *Alexander v. Sandoval* (2001), *Alabama State University Board of Trustees v. Garrett* (2001), and *Kimel v. Florida Board of Regents* (2000) served to indemnify states from prosecution under Title VI of the Civil Rights Act, the Americans With Disabilities Act, and the Age Discrimination in Employment Act, respectively. Given the "sovereign authority" held by state government, writes Gossett, "there is even less of a check on management authority in the public sector [over new employees] than there is in the private sector." (More evidence of the Supreme Court's views on state sovereign immunity will accumulate in the upcoming session. In the pending case, *Nevada Department of Human Resources v. Hibbs*, the court will decide whether states are immune from lawsuits under the federal Family and Medical Leave Act.)

In the same issue of the *Review*, on the other hand, Christine L. Kuykendall, a compensation officer for the federal courts, and Rex L. Facer II, assistant professor of public management at Brigham Young University, argue that even unclassified state employees may have an implicit property right in their job (which grants them special protections, including enhanced status through seniority), based on past federal case law. In a nutshell, such cases have held that the mere existence of something like an employee manual in a public sector setting implies a deep and powerful connection between the organization and employee; indeed, it implies an employee property right.

All of these legal issues have yet to be significantly tested in Texas, Georgia, or Florida. To the extent they will be, the most likely source for such cases is Florida, where a fired-up AFSCME is evincing no reluctance to take the Jeb Bush administration to court to challenge new personnel policies and actions.

The Impact of Civil Service Reform on Workforce Diversity

Besides the specter of wholesale patronage abuses, one other issue has been raised as a concern around civil service reform: diversity hiring. The worry is that under a system where agencies have considerable autonomy in hiring and firing, race or gender bias will naturally creep into the personnel picture. All agency personnel staff in all three states interviewed for this report expressed very clear concern that their state workforce reflect the race and gender makeup of the general population. But at the same time, they admitted that less central oversight might lead to a mixed hiring picture.

Clearly, though, this is an issue that *all* states are dealing with. And it's just as easy to argue that enhanced hiring flexibility could allow agencies to more aggressively pursue diversity in hiring. Take Georgia, for example. While there's been no formal study of the racial makeup of the Georgia workforce—which might decipher subtle or blatant patterns of race or sex discrimination—there is strong evidence in some agencies that some freedom and flexibility in hiring has actually *increased* the number of women and minorities working in government.

Peggy Ryan, head of personnel at the Georgia Department of Corrections, for one, reports an incredibly gender- and race-balanced workforce under the new system. An astounding 35 percent of Georgia corrections officers are women, she reports. (In fact, concerns have been raised that Georgia might have *too* many women prison guards.) And more than half of all sergeants and lieutenants in Georgia prisons are African American, she says. It's a record of affirmative action hiring that would be the envy of any state corrections system.

In Texas, personnel officials note that the extent to which they were able to find and hire qualified minorities depended quite a bit on the specific jobs being filled. The more white-collar the position, the more difficult it is to be able to find—and afford—qualified minority candidates. That isn't a function of civil service or merit; it's a reality faced by the public and private sectors alike.

The Impact of Civil Service Reform on Veterans' Preference

One of the more politically charged issues around civil service reform is how it impacts veterans' preference. Historically, military veterans get a leg up when it comes to being hired in state government by having points added to civil service test scores, moving them up the ranks on certified lists. In some states, veterans' preference is absolute; that is, if there's a veteran anywhere on a certified list, the veteran gets the job offer first.

It is a privilege that veterans are, naturally, keen to protect; indeed, they view it as a right. It's a dicey topic. On the one hand, most believe that veterans should be recognized for their service to the country. On the other, public hiring is supposed to be based on skill and ability (e.g., "merit"), not on some preference extended to a special class of citizen. In less guarded moments, some personnel executives will even admit that veterans' preference can sometimes force states to bypass a highly qualified candidate in favor of a mediocre candidate who happens to be a veteran.

Clearly, the actual power of veterans' preference depends heavily on the tactics and tools being used

to screen potential job candidates: It's easy to add points to scored tests. In states that are de-emphasizing formal written tests, on the other hand, the power of veterans' preference becomes much less absolute. Hiring authorities in Texas, Georgia, and Florida all claim to adhere to a policy that favors veterans, but in reality, who is to say why a particular candidate was chosen if that choice was based on a résumé, references, and a job interview?

The same holds true in all states that have de-emphasized written tests and gone more toward knowledge, skills, and abilities in screening potential hires. Because hiring in such instances is much more subjective, the power of veterans' preference is impossible to calculate. In fact, under such subjective systems, officials can claim to be adhering to a hiring policy that favors veterans while in fact making decisions based on whatever they please. (Such systems, not incidentally, also quite efficiently and completely confound "rule of three" requirements for hiring, as well.)

What's interesting is that veterans' groups don't seem to have picked up on this trend. Either it's too inside personnel baseball to have caught their attention, or they've decided it's too tough to fight. That is, it's easy to battle an outright repeal of veterans' preference, but much tougher to challenge what is often an administrative decision to shift to what many view as a much more rational system for selecting qualified job candidates. Either way, states have hit on a very effective way to skirt veterans' preference (and the rule of three): Do away with written tests.

Accountability and Quality Control

Whether state agencies stay out of legal trouble—either with regard to equal employment opportunity practices or in other areas of personnel management—will substantially depend, of course, on how professionally they're run versus how much of a role politics or personal whim plays in personnel decisions. In this day and age, argue reformers, when taxpayers expect high-performance government and the news media is on the hunt for any whiff of government scandal, it is unlikely that politics will ever substantially commandeer the machinery of personnel management. Again from the Florida Council of 100 report: "[T]he sheer size

of government today and the specialized nature of many of the services it provides make it extremely unlikely that a change of administration could lead to significant replacement of employees."

The council's point is well taken. Over the past decade—or longer—there has been a clear and growing emphasis on management and performance in the public sector. What's more, immediate past political history would suggest that good management is a much more solid foundation for elective longevity than generous padding of payrolls with patronage employees. Any new governor with plans to fire hundreds or thousands of state employees and replace them with cronies would pursue such a strategy at considerable political risk. Certainly, direct appointments—like agency directors and deputy directors—should reflect the thinking and goals of a new governor. But much below that level, it would seem to be a dangerous game to pursue any wholesale shuffling of veteran staff out of agencies (although as mentioned in the previous section, Florida seems to be determined to test that proposition in some departments).

But in talking with agency personnel directors in all three states—Texas, Georgia, and Florida—it quickly becomes clear that these are people who do take their jobs very seriously. The level of personnel management expertise—at least in the larger agencies—suggests a real commitment on the part of states to doing personnel management in as professional and progressive a way as possible.

But quality control is an issue in states where central personnel offices are absent. Georgia, in particular, is so diffuse now that it's hard to get a handle on what exactly is going on, particularly in smaller agencies. One job of the vestigial Merit System in Georgia is supposed to be quality control through spot audits of agencies, but the office has yet to do a single review.

In Texas, the state auditor has assumed a prominent role as advisor and overseer of personnel offices statewide. On the auditing side, the office regularly combs through state agencies to make sure that actual jobs line up with the Texas compensation and classification scheme. But the state auditor also serves as a consultant to agencies. On the one hand, the office offers guidelines to agencies for

doing self-audits; on the other, it publishes material like its *Methodology Manual*, which covers dozens of key accountability issues that human resource professionals should be wrestling with—along with which Texas codes apply with respect to those issues—whether it’s dealing with compensatory time, conflict of interest, employee drug and alcohol abuse, or age discrimination.

In Florida, the role of general personnel overseer falls to the Department of Management Services’ Personnel Division, which each year publishes the *Annual Workforce Report*. The report is a sweeping compendium of what’s going on in the state personnel service, from the number of employees in state service, to the number and type of grievances filed for that year (and their ultimate disposition), to the racial makeup of the state workforce. DMS, like the state auditor in Texas, also serves as an active consultant to agency personnel offices on a wide range of tactical, legal, and administrative issues.

Paying for Performance

The issue of compensation comes up constantly in discussions with agency personnel officials, regardless of what system they operate under. While the whole discussion and debate around compensation is a matter for another report, no discussion of personnel management should ignore the central role of compensation—pay and benefits—when it comes to attracting and hanging on to the best and the brightest.

In fact, many have argued that such increases in employee accountability as witnessed in Georgia and Florida should come with commensurate increases in pay. Florida has hewed to that philosophy to a degree. Those managers bumped into the Selected Exempt Service were given free health care (in the past, they shared the costs). But pay generally is still a very volatile and unsettled issue, and it is clear that the most streamlined and efficient personnel system in the world is ultimately no substitute for a decent wage when it comes to helping find, hire, and keep good people. That’s as true for New York as it is for Georgia.

Individual agencies in Texas, for example, reported different stories on the compensation front. Officials in Parks and Wildlife, for example, say that the State

Auditor’s Office has been very responsive to arguments in favor of increasing compensation for highly competitive job classes. The state’s Historical Commission, on the other hand, says it has jobs that require a master’s or doctorate that pay peanuts. “Those jobs can be very tough to fill,” says a commission staffer.

Kelli Vito, who oversees compensation and classification for the State Auditor’s Office, argues that the current pay schedules are competitive when looked at in terms of *potential* pay. “The problem is that over 70 percent of all our employees fall below mid range,” she says. Agency personnel staff respond that *potential* pay is not the issue; the issue is what agencies actually get from the legislature for staff salaries.

Broader economic and demographic forces will always powerfully influence workforce trends in state personnel, issues of compensation notwithstanding. For example, personnel officials in states other than Texas, Georgia, and Florida report that in the wake of the so-called “dot-bomb” crash of high-tech companies in the past three years, not only have they noticed a reversal in the availability of technical staff (it’s gone from famine to feast), but they’ve also noticed people turning to lower-paying public sector jobs *because* of the enhanced job security that comes with civil service protection.

Clearly, states that are looking at their whole personnel systems to gauge competitiveness need to look beyond just the rules and regulations that dictate hiring and firing; they need to consider the fundamental issue of whether their public employees are being adequately compensated.

But at the end of the day, public sector hiring will always be a fairly complicated balancing act. The need for decent pay will be offset by frequently tight budgets; the push toward greater personnel flexibility will come up against the need for an equal measure of accountability. Debates over protecting public employees will be counterbalanced by arguments that the public sector workforce needs to be held more accountable, and on and on it goes.

The hope is that policy makers, labor leaders, and government managers will in the future think strategically about state workforce needs and then try to cooperate in refining systems to fulfill those needs. Mark Neimeiser, head of AFSCME Florida Council 79, said it well: “If there’s a problem around bumping, then let’s talk about how we deal with bumping,” as opposed to the rather blunt instrument of wiping out seniority for all employees.

As mentioned earlier, more states *are* working within existing statute to modernize and streamline personnel management practices. In those states that can make significant progress in improving merit system practices within existing statute, there will clearly be less of a temptation to put match to fuse.

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Jonathan Walters is a staff correspondent for *Governing* magazine. Walters has been covering state and local public administration and policy for more than 20 years, writing for publications including the *Washington Post*, the *New York Times*, and *USA Today*. For the past 10 years he has been focusing on public sector management and administration with an emphasis on change management and results-based governance. Past articles for *Governing* have included stories on total quality management, performance measurement, activity-based costing, performance-based budgeting, the balanced scorecard, and management trends and innovation in government.

For the past 13 years, he has been directly involved in covering the Ford Foundation/Kennedy School Innovations in American Government awards. He is also the author of *Measuring Up! Governing's Guide to Performance Measurement for Geniuses and Other Public Managers*. Walters frequently speaks on a wide range of subjects related to public sector policy and administration, from performance-based governance to civil service reform.

Besides covering government, Walters is actively involved in government in his hometown of Ghent, New York, where he serves as co-chair of the planning board and as the town's freedom of information law officer. He is also active in his local volunteer fire company. Walters graduated from the University of Massachusetts, Amherst, in 1977 with a B.A. in English/journalism.



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