Prospects for Civil Service Reform in California:

A Triumph of Technique Over Purpose?

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During the 1990s, many public sector jurisdictions sought to reform their civil service systems in order to make them more flexible and responsive. The success of those efforts depended to a large extent on political factors such as the extent to which there were active constituencies backing such reforms. The federal government provides an example in that while in 1978, the Carter administration was able to enact reform legislation, efforts by the Clinton administration died for lack of support. State governments that have sought reform have taken one of two approaches—either modernization or the complete abolishment of the system. This paper explains why political factors have prevented the state of California from following either of these two models, despite vocal calls for reform. Among the reasons cited are the power of the unions and their relationship with the Governor, the existence of two, sometimes competing agencies overseeing the civil service, a lack of consensus that the system needs reform, and the absence of a strong leader to drive the effort.

The 1990s may well be remembered as the decade of reinventing government. Public institutions, facing declining confidence in government, fiscal crises, and citizens' simultaneous demands for higher quality services and lower taxes, began searching for ways to become leaner, more decentralized, flexible and innovative (see, for example, Osborne and Gaebler 1992, National Performance Review 1993a). Unfortunately, human resource functions within organizations are often seen as standing in the way of progress (Hays 1996). As Wallace Sayre wrote half a century ago, in its efforts to preserve standardization and uniformity as overriding values, personnel administration has "tended to become characterized more by procedure, rule and technique than by purpose or results" (Sayre 1948). Authors of the best-selling *Reinventing Government* put it this way: "The only thing more destructive than a line item budget is a personnel system built around civil service." (Osborne and Gaebler 1992: 124).

Efforts to alter outmoded systems have met with mixed results. At one end of the spectrum are Georgia and Florida, which have virtually eliminated their merit systems. At the other extreme is the state of California where, despite a cacophony of voices calling

for reform, change has not been forthcoming. The purpose of this paper is to examine the reasons for the failure to reform in California. It begins with brief discussion of the politics of civil service reform.

Civil Service Reform and the Political Environment

The success of civil service reform efforts depends on a number of variables including the partisan affiliation of the governor and legislature, the characteristics of the state's administrative workforce and the state's general economic condition (Coggburn 2001). Successful civil service reform also requires the endorsement of key constituencies and a chief executive who is committed to substantial reform. The federal government example provides a case in point.

Carter Calls for Change

In 1978, the Civil Service Reform Act (CSRA) was intended to be a sweeping overhaul of the much-criticized merit system instituted in 1883. That system, established to shield the bureaucracy from political influence, was seen as inefficient, unresponsive, overly complex and rule-bound. In his state of the union address that year, President Jimmy Carter remarked:

> But even the best organized Government will only be as effective as the people who carry out its policies. For this reason, I consider civil service reform to be absolutely vital. Worked out with the civil servants themselves, this reorganization plan will restore the merit principle to a system that has grown into a bureaucratic maze. It will provide greater management flexibility and better rewards for better performance without compromising job security.

The political environment in which the Act gained support and eventual passage is well documented (see, for example, Ingraham and Rosenbloom 1992, Schuh 2000).

Sold to Congress and the public as a way to “fix” an inefficient and untrustworthy bureaucracy, the Act’s passage required the careful balancing of a number of political interests that sought to strengthen their own influence. For example, veterans groups lobbied (successfully) to strengthen veterans preference rather than limiting it as the administration had originally planned. Unions were triumphant (ultimately) in gaining statutory ground for the federal labor management relations program (Newland 1992). Other groups, including the public administration community, lent their support to the Act focusing their recommendations on technical aspects of the bill (Schuh 2000).

Despite successful passage of the Act, subsequent criticism was relentless. Denunciation reached its zenith in the late 1980s when the National Commission on the Public Service (1989; known more commonly as the Volcker Commission), the Hudson Institute (Johnston et al. 1988), the National Academy of Public Administration (Levine 1986) and others referred to a “quiet crisis” in the federal government (see also U.S. General Accounting Office 1990). The changing demographics of the workforce, government’s inability to offer comparable pay and benefits available in the private sector, slow and confusing hiring procedures, pressure to cut budgets and downsize, and a poor image of government were just some of the reasons cited as the basis for this crisis. The ability of employers to respond to these challenges depended to a significant extent on the structure of their human resource management systems. Once again, the federal civil service required reform as critics denounced the same overregulation, complexity, and lack of flexibility that were the targets of the 1978 reform effort (see, for example, National Commission on the Public Service 1989, Abramson 2001, Ingraham, Selden and Moynihan 2000).

The Clinton Administration Hears the Call

The next effort at civil service reform was led by the Clinton administration's National Performance Review (NPR). The NPR, inspired by Osborne and Gaebler's *Reinventing Government* (1992), observed:

> The federal human resource management system contains major impediments to efficient and effective management of the workforce. It's a patchwork of rules and requirements that compound rather than serve customer needs. It's process-driven; results are a by-product, not a measure of accountability. (NPR 1993b 1; see also Kettl et al. 1996, National Academy of Public Administration 1995)

Included among the NPR's recommendations were:

- Delegating recruitment and examination authority to agencies
- Allowing agencies to establish broadbanded classification systems and flexibility in setting base pay
- Authorizing agencies to create their own performance management programs
- Improving due process procedures and reducing the time required to discharge employees for cause
- Generating a "culture of change" within the senior executive service (SES) (NPR 1993b)

Clinton also established, by executive order, a Labor Management Partnership Council and required federal agencies to bargain on issues that the statute permitted, but did not require them to do so.

This time the political environment was not conducive to change, however, and civil service reform proposals floated by the Clinton administration were not passed. One reason, offered by Kettl et al. is that "most observers of government view government management in general, and civil service in particular, as an issue that is

dull as dishwater" (1996:2). In other words, key constituents were not sufficiently concerned about reform, let alone mobilized to promote it.

There was also trouble on the Hill, however. Midterm elections during Clinton's first term gave control of both houses of Congress to the Republications who showed little interest in passing Clinton's proposals. Even the major unions representing federal employees, already at odds with the administration's massive downsizing effort, failed to rally behind the reform proposals. In fact, a letter from the heads of the four major federal unions to senior policy advisor Elaine Kamarck in May, 1995 expressed "grave concerns about the Administration's draft Civil Service Reform Bill…Simply put, we would be forced to publicly oppose this bill in the strongest possible terms should it be sent to Congress for action" (Sturdivant et al. 1995). Similarly, proposed reforms to the CSRA-created Senior Executive Service met with opposition from the Senior Executive Association (Shafritz et al 2001). Despite the NPR's call for additional flexibility in hiring, legislation was passed to apply sanctions to federal supervisors who do not strictly adhere to veterans' preference requirements (Friel 1998).

Instead, deregulation and decentralization of federal human resources occurred largely through a 48 percent reduction in the Office of Personnel Management's staff, and the much heralded elimination of its Federal Personnel Manual and standard government employment application (Kettl 1998). Further decentralization of a different sort has occurred when Congress has given specific agencies such as the Federal Aviation Administration and Internal Revenue Service authority to develop their own personnel systems. The bottom line is that despite eight years of initiatives and legislative proposals, a revamped civil service reform law was not enacted.

Prospects for Reform: An Update

More recently, Comptroller General David Walker has raised a hue and cry again about an impending calamity, this time calling it a "human capital crisis' (Walker 2000). The current focus is the expected retirement of an estimated 293,000 federal employees over the next four years as well as the increasing knowledge and skill requirements for federal work. Everyone from the Bush administration to the unions have joined the rallying cry to stem the looming crisis. Senator George Voinovich has made it one of his causes, introducing three pieces of legislation to address the crisis in one form or another.[1] Paul Volcker is heading a new National Commission on the Public Service, under the auspices of the Brookings Institution, to focus attention on recruitment, retention, pay compression and other issues that contribute to the impending crisis. A privately funded Partnership for Public Service is similarly calling for enhancement of recruitment and retention incentives.

One of the first acts by George W. Bush upon assuming the presidency was to rescind Clinton's executive order establishing a Labor Management Partnership Council, clearly signaling the extent to which he intended to heed labor's concerns. Bush announced his own government reform agenda in August 2001, the Freedom to Manage Initiative. Under the initiative's rubric, the Managerial Flexibility Act (S 1612), introduced in the Senate by Fred Thompson three months later, is designed to "give Federal managers the tools and the authority to cultivate a workforce that is able and motivated." The bill does not provide for dramatic civil service reform, but rather consists of modest provisions such as revising eligibility criteria for early retirement, providing managers with greater authority to use recruitment and retention bonuses, amending

[1] The Federal Employment Management Reform Act of 2001 (S. 1639), the Federal Human Capital Act of 2001 (S. 1603), and the Federal Workforce Improvement Act (S 2651).

demonstration project authority to make it easier for agencies to implement alternative personnel systems, and authorizing the use of a quality category rather than a numerical ratings selection system. The largest union representing federal employees, the American Federation of Government Employees (AFGE) has described the bill as "a grab bag of changes which provides higher salaries and lower accountability for the most highly paid Federal Executives" which "does absolutely nothing to address the federal government's human capital crisis" (AFGE 2001).

It seems that what the current administration would prefer is to do away with the civil service system altogether. In an effort Paul Light has called "radical civil service reform" the Office of Management and Budget has already directed agencies to let private companies compete for nearly half a million federal jobs (Peckenpaugh 2001). Moreover, the administration is endorsing an exemption from civil service laws for the estimated 170,000 employees of the newly to-be-created Homeland Security Department. Somewhat ironically, Office of Personnel Management Director Kay James told a House Committee "With a mission this critical, we cannot afford a personnel system that rewards mediocrity and demoralizes high performers" (Mullins and Mitchell 2002).

How successful the administration will ultimately be in prying federal employees loose from the civil service system remains to be seen. The public seems to be willing to suspend some of its civil liberties in the post-9/11 world and if that requires federal employees to sacrifice their civil service protections in the name of national security, so be it. While the legislation introduced by Thompson and Voinpvich is fairly noncontroversial and so will probably meet little opposition, neither are their vocal demands for its passage. While the unions have some contempt for Bush's Managerial Flexibility Act, it is unlike they will successfully mobilize for its defeat as it does provide some potential benefits for union members (e.g., retention bonuses). Moreover, unlike

Clinton, neither Bush nor the Republicans in Congress are particularly concerned about their judgment.

Reform in the States

In state government, two models of reform have been evident. One is the "modernization" effort called for by the state government counterpart of the Volcker Commission, the Commission on the State and Local Public Service (also known as the Winter Commission). In its 1993 report, the Commission called for a revitalization of the public service and offered a number of recommendations for civil service reform. These included decentralizing merit systems, replacing complicated grade and step systems with broad-banding, and turning more authority for staffing decisions to agencies and departments (National Commission on the State and Local Public Service 1993).

Reform undertaken by the state of New York exemplifies the modernization approach. In the mid 1990s Civil Service Commissioner George C. Sinnott was able to secure the passage of legislation allowing state employees to transfer to jobs in other agencies in lieu of being laid off. It also provides program managers with enhanced hiring flexibility, and reduced job titles by 2000. The importance of the political environment and the constellation of supporters and opponents of reform is also clear in this circumstance. Initial attempts to enact statutory reform were consistently defeated, in part due to strong union opposition and divided government (Ban and Riccucci 1994). Sinnott was successful in accomplishing an "extraordinary turnaround" in part because of his personal expertise and commitment and because the task force he assembled sought input from state employee unions, other government agencies and private sector organizations (Hutchins 2001).

The other model of civil service reform in the states has been more radical. The states of Georgia and Florida dealt with their frustrations with the system by dismantling

them. In Georgia, state employees hired after July 1, 1996 can be hired and fired at will. This fundamental rout of the civil service system was certainly enabled by its prohibition against collective bargaining by state workers as well as Governor Miller's personal dedication to the cause. Miller's, rhetoric was reminiscent of Jimmy Carter when he said, "…despite its name, our present Merit System is not about merit…" (quoted in Condrey 2002 115). Other factors contributing to the legislation's success were editorial support from the state's largest newspapers as well as from state agency leaders (Condrey 2002).

Inspired by Georgia, Florida's Republican Governor Jeb Bush allied with business leaders and Florida Tax Watch to propose similar legislation, called "Service First." Unlike Georgia, organized labor was initially able to block the initiative. But despite their mobilization of state workers and other unions to lobby against the legislation, it was ultimately passed by significant margins in both houses (West 2002)

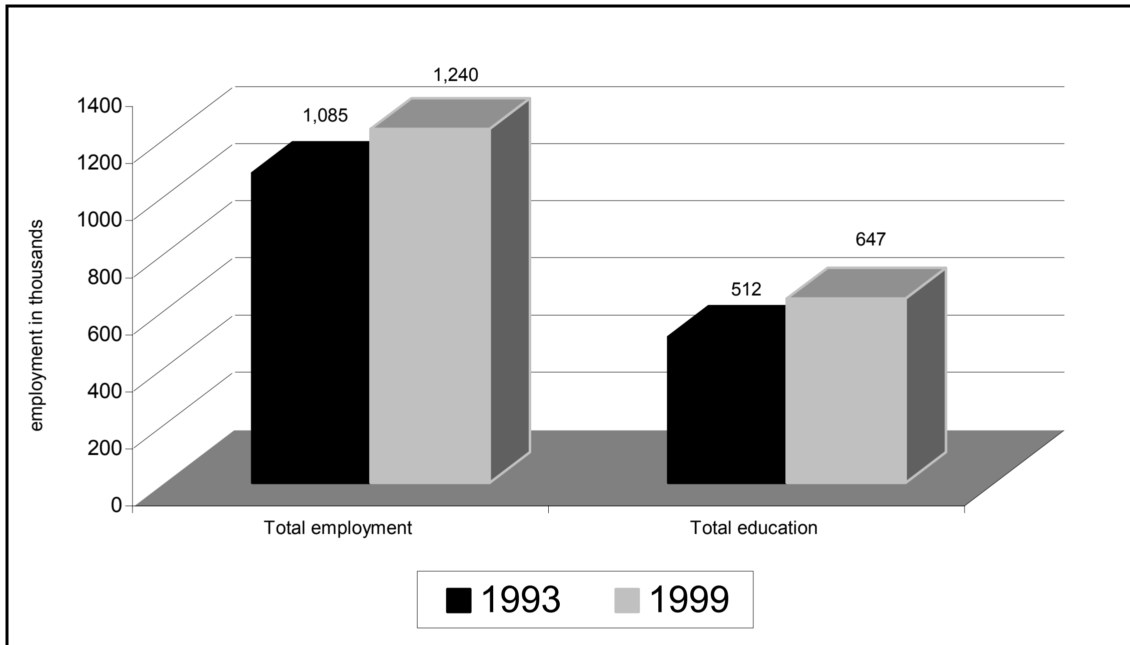
If these are the two models of civil service reform in the states, then where does California find itself? As will become clear, it is off the chart. While for many years the need for reform has been apparent, and recommendations for modernization have been forthcoming, the system remains inert. Here, too, the explanation is a political one, resting to a significant degree on the strength of the unions and the nature of the state's elected leadership.

Prospects for Reform: The Case of California

California, with a population of 35 million and a trillion dollar plus economy has over a million employees on its payroll, half of which are in education (see figure 1). Of these 208, 433 are within the civil service system (State Personnel Board 2000). They fall into 4462 classifications and are represented by 21 different bargaining units (Little Hoover Commission 1995). Despite California's reputation as a "trendsetter"; i.e. the

place where the tax revolt, environmental movement and immigration debate began (Chavez 1998) the State's civil service system has changed little since the introduction of the merit system in the early 1900s.

Figure 1. California State Employment 1993, 1999



Source: http://www.census.gov/govs/apes

A Brief History

In California, progressive era reforms and union potency have deep roots. After enduring "cesspools of corruption," (Newland 1999) the State established a merit system with the passage of a Civil Service Act in 1913. Following an economic depression in which state workers faced pay cuts and layoffs, the newly formed California State Employees Association (CSEA) sponsored an initiative that placed the civil service within the State Constitution. The measure, passed by an overwhelming majority of voters also created the State Personnel Board (SPB). Initially, the SPB, a five member board appointed by the governor for ten year terms, administered a fairly straightforward

system of selecting, promoting and retaining the best qualified individuals, judged to be so by objective standards insulted from the pressures of political patronage.

However, with the Civil Rights era challenging traditional definitions of merit and unions pressing for a greater voice, the system began to show signs of stress. As a result, the State Employer-Employee Relations Act (SEERA, also called the Dills Act) was passed and signed into law in 1977. Most terms and conditions of employment became negotiable for the majority of the state's civil servants. The Act further created the Public Employment Relations Board to oversee administration of the Act.

In 1979, Governor Jerry Brown asked the Commission on California State Government Organization and Economy (later known as the Little Hoover Commission [2]) to undertake a comprehensive review of the State's personnel system. The Commission concluded that SEERA, along with affirmative action guarantees mandated by the legislature in 1977, "put strains on the State's current civil service organization structure which cannot be corrected by patchwork" (Commission on California State Government 1979, iii). Among its recommendations was the establishment of a Cabinet level Department of Personnel Administration to oversee all personnel management functions. The Commission further suggested that a constitutional amendment be passed to replace the SPB with a State Employment Equity Board to ensure the application of merit principles and serve as the neutral third party in the administration of employer-employee organization relationships. It also advocated the establishment of a streamlined personnel management system that would delegate to departments the authority to hire, promote and reward employees; require strict performance standards for jobs and the release those not meeting those standards; and hold managers

[2] Created in 1962, the Commission investigates state government operations, makes recommendations and drafts legislative proposals designed to promote efficiency, economy and improved service in state government. By statute, the Commission is a balanced bipartisan board composed of five citizen members appointed by the Governor, four citizen members appointed by the Legislature, two Senators and two Assembly members

accountable for effective performance of their mission (Commission on California State Government 1979).

The governor did establish a Department of Personnel Administration (DPA), reporting directly to him, but no constitutional amendment dissolving the SPB was forthcoming. Rather, its role in day-to-day management was reduced as the DPA and unions assumed responsibility for negotiating conditions of employment, including compensation, as well as administering training programs and layoff and grievance procedures.

While the division of responsibilities between SPB and DPA may sound straightforward, it is anything but clear cut. A table of functions performed by both shows that while the DPA handles appeals of AWOL and voluntary resignation, the SPB is responsible for appeals of rejection during probation and classification appeals. DPA is responsible for drug testing of current employees, while the SPB handles drug testing of new hires. SPB is responsible for part-time employment, while DPA is responsible for the part-time, seasonal and temporary retirement plan. Both have responsibilities with respect to position classification (e.g., creating a new classification or amending an existing one requires concurrence of both agencies), upward mobility and employment of the disabled. Moreover, nine other state departments *also* have some responsibilities with respect to the state personnel system (see table 1) (Little Hoover Commission 1995)

Table 1
The Personnel Management Bureaucracy
(State departments with some personnel responsibilities)

Agency	***Responsibility***
State Personnel Board	The five-member board, gubernatorially appointed, revises classification plans, develops exam techniques and hears employee appeals of discipline actions.
Department of Personnel Administration	Negotiates salaries, benefits and other employment terms with unions. Administers compensation, evaluation and training programs, and layoff and grievance procedures.
Public Employment Relations Board	Protects the rights of workers to unionize and hears appeals of unfair labor practices.
Department of Fair Employment and Housing	Investigates complaints of discrimination in housing, employment and public accommodations.
Office of Administrative Law	Reviews and approves regulations proposed by state agencies, including most personnel management rules.
Department of General Services	Reviews contracts for personnel services from private firms for legal adequacy.
Department of Finance	Analyzes department budget proposals, including the expansion and reduction of staffs
State Compensation Insurance Fund	Offers insurance protection to employers against on-the-job injury claims, and administers benefit claims.
Public Employees' Retirement System	Contracts and approves health benefit plans for state workers; hears employee appeals on coverage disputes.
State Board of Control	Settles employee claims over "out-of-class" work assignments and unpaid benefits.
State Controller	Administers the state payroll and oversees the Personnel Management Information System.

Source: LHC 1995

In the mid 1980s, California accomplished what is often recommended as part of reform proposals—the decentralization of testing and hiring to individual departments. Unfortunately, the impetus was not providing agencies with more flexibility, but a significant reduction in the SPB's budget. As a result SPB was unable to provide the training required to ensure agencies would adhere to merit principles, and some did not. Recently, SPB published the results of a comprehensive review of the decentralized testing program. The review identified deficiencies including "insufficiently trained examination staff and poor testing practices that do not result in job-related, merit-based examination processes" (SPB 2002a, 3). Agencies were criticized for developing testing processes that were not based on the job analytic requirements set forth in the Federal Uniform Guidelines on Employee Section Procedures, which in turn has resulted in adverse impact against candidate groups as well as for deficiencies in the examination interview process (SPB 2002a). In a hearing discussing the report, state departments complained of a lack of resources to perform job analyses in the manner prescribed by SPB as well as a lack of updated manuals and policy direction from SPB staff (Bouler 2002). Some agencies felt betrayed because they had been encouraged by the previous (Wilson) administration to be creative in their examination processes, and they were now getting beaten up for it.

Pressure for Reform

By the mid 1990s, the intricacies presented by two agencies sharing major responsibility for the civil service, and other constraints of the system as it evolved were becoming more visible. The Little Hoover Commission (LHC) and the Legislative Analysts Office (LAO) undertook studies to shed light on potential deficiencies and make recommendations for reform.

The LHC assembled an advisory committee of more than 90 people including representatives of labor, management, the public, the legislature and academics. Its report issued in 1995 and entitled "Too Many Agencies, Too Many Rules" focused on the following findings and recommendations:

- The bifurcated management structure is "hamstrung by procedures that intentionally discourage change." The Commission recommended that the SPB be abolished, unifying authority in the DPA.
- Departments lack flexibility to test, hire and assign tasks to the most qualified people and are forced to deal with a costly and dysfunctional discipline process. The Commission suggested that departments be given more latitude over examination and classification procedures, management be given greater training, and that permanent tenure and pay raises be abolished.
- The State is "restricted from tapping the talents and efficiencies of the marketplace." The report recommended that the State Constitution be amended to "eliminate the presumption that civil servants must perform government tasks." Commissioners further recommended that labor-management advisory committees be established to resolve problems and promote innovation (Little Hoover Commission 1995).

These and other Commission recommendations found their way into bills drafted by members of the legislature (see table 2). However, only two of the more minor recommendations were passed into law.[3]

[3]Both reforms that were passed into law affected SPB. AB 2772 exempted some SPB rules from the OAL review (see footnote 5). AB 2775 set some limits on the number of competitors in open exams in entry-level positions. SPB has not yet implemented regulations based on these reforms.

Table 2
Little Hoover Commission's Legislative Proposals on the Civil Service
1995-96 Legislative Session

Bill, Author	**Summary**	**Status**
AB 1553 Kaloogian	Creates the Quality Demonstration Project Act to allow DPA to test alternative ideas and concepts in the State's classification and compensation programs	Died in Senate Committee
AB 2503 Ackerman	Opens the examination process for Career Executive Assignment (CEA) positions to non-civil service applicants	Dropped by author
AB 2519 Kaloogian	Allows the State Personnel Board to redefine "class" to encompass a "broadband" classification concept	Assembly Floor Failed Passage
AB 2570 Margett	Limits the Administrative Procedure Act as it applies to internal civil service personnel rules	Died in Senate Committee
AB 2709 Brulte	Eliminates automatic salary increases. Revises salary statutes so that all salary increases will be based on job performance	Assembly Inactive File
AB 2747 Ackerman	Shortens and modifies the State's layoff process to eliminate overlapping jurisdiction and responsibility between the Department of Personnel Administration and the State Personnel Board	Assembly Inactive File
AB 2772 Cortese	Limits the application of the Administrative Procedure Act as it applies to State Personnel Board internal personnel rules	Chapter 935, 1996
AB 2775 Miller	Reforms the civil service examination process	Chapter 772, 1996

Bill, Author	Summary	Status
AB 3282 Cunneen	Streamlines the civil service discipline process	Died in Senate Committee
AB 3427 Baugh	Reforms the civil service selection and certification process	Assembly Floor Failed Passage
ACA 11 Morrow	Eliminates the constitutional provision against contracting out	Dropped by author
ACA 22 Speier	Abolishes the State Personnel Board	Dropped by author
ACA 35 Kaloogian	Eliminates the Constitutional prohibition against contracting out. Allows the State to contract with private entities to perform state functions and services	Died in Committee
ACA 42 Poochigian	Eliminates the Constitutional prohibition against contracting out. Allows the State to contract with private entities to perform state functions and services	Assembly Floor Failed Passage
SCA 20 Monteith	Eliminates the Constitutional prohibition against contracting out. Allows the State to contract with private entities to perform state functions and services	Died in Committee

Source: LHC 1999

If the legislature were to enact such reforms, the 1995-96 session would have been a prime time to do so. Previous research has found that states with greater Republican control over government are more likely to enact deregulatory measures (Coggburn 2001). In addition to having a Republican governor, the 1994 election left the

State Assembly in Republican hands for the first time in 25 years, and diminished the margin of Democrats in the Senate. Moreover, the State's Legislative Analysts Office (LAO) voiced its support for reform. In a report accompanying the 1995-96 budget, the LAO registered several objections to the current system, as it had evolved, including:

- A "merit" pay process where salary adjustments are actually automatic
- Seniority-driven layoffs which involves a complex process where neither talent nor job performance are considered
- Awarding extra points to veterans and incumbent state employees in the examination process, restricting managers' ability to consider the best qualified
- A "rule of three" that similarly narrows consideration of qualified candidates
- A long and expensive adverse action appeal process.
- An interpretation of the Administrative Procedures Act which has evolved to apply to state's own internal regulations and policies, resulting in a very elaborate and time-consuming process each time the DPA or SPB intends to issue guidelines or clarifying instructions[4]
- A classification process with "minute distinctions between classifications that often borders on the ridiculous."

The LAO concluded its report by suggesting that the Legislature begin a fundamental rethinking of the state civil service system. The following year, the LAO again supplemented its analysis to the 1996-97 budget with a more specific analysis of

[4] California's Administrative Procedure Act (APA) was adopted in 1945 to improve the clarity and consistency of state regulations. However, in a 1978 decision, the California Supreme Court interpreted the law to apply to the state's internal personnel policies. Therefore, before DPA or SPB can promulgate a policy, it must (1) prepare detailed documentation in support of the policy, (2) provide public notice and receive comments, (3) respond to each comment received, (4) hold a public hearing if requested by anyone, and (5) submit the regulation and documentation to the Office of Administrative Law for its approval (Asimov 1992).

recruitment and hiring in the state civil service. From the analysis arose the following recommendations:

- Replace the "rule of three names" with the "rule of three ranks" in examination scoring, to broaden job candidate pools that managers can consider.
- Eliminate extra examination points for nonmerit and non-job- related reasons (e.g., to veterans and current state employees).
- Eliminate the precedence given to hiring lists comprised of state employees over lists of nonstate employees.
- Increase the maximum probation period that the State Personnel Board may establish for a job class from one year to two years.
- Exempt the state's internal personnel practices from the burdensome requirements of the Administrative Procedure Act.

Some of these recommendations are problematic, however. First, it is unclear why the LAO recommended instituting a “rule of three ranks” as such a system has been in pace for quite some time.[5] Moreover, there is no way the unions would agree to increasing the maximum probation period, or to eliminating the extra points that current state employees receive in the examination process. The union’s power is significant. Following the legislative session, the largest union representing California state employees, the California State Employees Association (CSEA) took credit for defeating two dozen bills that contained what they considered to be anti-union or anti-state employee provisions (“Despite Legislative Chaos” 1996).

[5] Under this system percentile cutoffs are established for an occupation before an exam is given. The scores above each cutoff represent a rank, and the supervisor may select anyone who is in the top three ranks. For example, the top rank may include scores above 95%, the second rank scores above 90%, and so forth. In some cases a “rule of the list” is used where all eligibles on the list are reachable.

Additional problems in the system identified by personnel officials and others interviewed for this paper include an outdated classification standards and an inordinately slow hiring process. Outdated class standards present agencies with severe difficulties because they provide the basis for qualification standards, and therefore job announcements. (The “unit supervisor” standard, for example, has not been updated since 1972). Forced to advertise a position with outdated or incomplete standards means that agencies will be presented with a long list of eligibles who do not have the required qualifications. One reason the standards are outdated is that they are within the scope of bargaining and it is assumed that unions won’t go along with revising them without also demanding higher salaries for those positions. For its part, CSEA claims it has asked DPA for duty statements and has been stonewalled. Updating the standards also presents a workload issue. Revision requires the participation of all departments who use a particular classification along with DPA and the unions.

A related concern is the examination and hiring process. Examinations are offered every one to four years. This means that included on the list of eligibles from which departments are required to select are people who may no longer be interested in the job. Moreover, it takes on average six months from the time an exam is given to the time a supervisor receives a list of eligibles. This is particularly problematic because of a measure instituted as part of the 2000 budget agreement. That measure, known as the “six-month rule” requires the State Controller to eliminate positions that are vacant for six consecutive months (Californian Budget Project 2002).

Why, then, has this otherwise progressive state been so slow to implement the reforms called for in the literature (e.g., Osborne and Gaebler), undertaken in some states (e.g., Georgia) and called for by its own oversight bodies (LAO and LHC)?

Whither Civil Service Reform?

The answer turns largely on the broad scope of bargaining enjoyed by state employee unions, their resistance to change and their relationship with the governor. Another factor impeding reform is the existence of two agencies (SPB and DPA) at the helm of civil service. Far from providing unified leadership in favor of change, the two agencies sometimes find themselves at loggerheads with each other. A third reason is the lack of consensus that the system is in need of reform or any other source of leadership (a la New York's George C. Sinnott) to lead a major reform effort.

Depending on whom you ask, Pete Wilson, who served as governor from 1991-98, was either the devil incarnate out to maim state civil servants, or a champion of increased efficiency through reinventing government-like reforms. If privatization constitutes a "radical" reform akin to the civil service dismantlement undertaken by Georgia and Florida, then Wilson was an insurgent. He made privatization of state services a centerpiece of his agenda and sought to overturn a provision in the State Constitution that limits contracting out state work. Wilson also tried to implement less momentous changes, including the implementation of a wide-ranging pay for performance system. His position was that every dime public employees earn—including cost of living increases—should be based on performance. The Wilson administration also sought changes in the layoff system and succeeded in negotiating an expedited disciplinary process for some bargaining units.

Wilson met with limited success, however, because of union opposition to his proposals. In fact, Wilson supporters and opponents agree that relationships with unions during his administration were exceptionally hostile, to the point where no matter what one proposed, the other would object. In a letter addressed to Governor Davis and legislative leaders in January 1999, LHC chairman Richard Terzian said that its

1995 recommendations "like many other 'civil service' reform initiatives, were consumed by the most serious discord between management and labor in the modern history of the state." In fact, while negotiation sessions took place, there were no agreements with labor for four years. DPA found itself in the unenviable position of having to reject union proposals based on philosophy rather than because they could point to a concrete management concern with the proposal

Calling Wilson "a serial privatizer who apparently can't help himself," CSEA launched a virulent crusade against his privatization venture in which the union ultimately prevailed through successful lawsuits and the defeat of legislative proposals (CSEA 1996). CSEA also blocked the governor's efforts to impose pay-for-performance (which they called "pucker pay") on rank and file employees, although nonunion supervisors and managers were brought into this scheme. Only two unions, representing health care professionals were willing to go along with changes to the layoff system.

When the much more pro-labor Grey Davis assumed office in 1999, the climate changed dramatically. Pay for performance, was dropped, as were the changes in the layoff system, and Davis took steps to return contracted work to state employees. But with the improved climate also came the administration's reluctance to confront the unions with reforms they have long opposed. Of course, the more cynical observers might note the governor's dependence on union support for his election. Since 1997, nine of his top ten campaign contributors have been unions, including nearly $2 million in contributions from the Service Employees International Union and nearly $1 million from AFSCME (Williams and Marinucci 2002). Nor are unions necessarily willing to let down their guard despite a more pro-union environment. As one union official put it, employees are no longer as fearful of losing their jobs as they were during the Wilson

administration. But every four years there is a new Governor. Why put reforms in place that the next governor may take advantage of at the expense of labor?

Another participant trudging in the civil service morass is the Association of California State Supervisors (ACSS). ACSS is technically an affiliate of CSEA and while they claim that does not stop them from taking positions in opposition to the union, in practice they seldom do. Supervisors are exempt from collective bargaining and therefore are in some ways the forgotten stepchild in a civil service system that revolves around labor negotiations. DPA has the authority to set supervisors' pay, but seldom gets around to it until they have completed their negotiations with unions representing rank and file employees. Moreover, exempt employees don't receive some of the benefits rank and file employees do, such as recruitment and retention bonuses. As a result, some supervisors earn less than their own subordinates. ACSS is supporting a bill currently in the State legislature (AB 2477) that would create a salary-setting commission to recommend pay levels for excluded employees, introducing yet another body into California's peculiar human resource management milieu.

Another impediment to reform is the existence of two agencies with central roles in the civil service system and its day-to-day operations, SPB and DPA. Since the passage of the Dills Act in 1977 making most terms and conditions of employment negotiable, and the subsequent establishment of DPA to represent the governor in those negotiations, SPB has seen its authority and scope of responsibility diminish. As a result, even when unions agree to reforms in the context of labor negotiations, SPB sometimes steps in and objects.

For example, in 1997 DPA negotiated a streamlined procedure for resolving minor disciplinary appeals with the California Department of Forestry and Fire Protection. Disputes requiring an independent mediator were to be reviewed by a labor-management committee in an expedited process. From DPA's perspective, this

procedure worked very well as it was considerably less time consuming and rule-bound than the "normal" appellate process. However, SPB, asserting that the agreement encroached on its jurisdiction over the disciplinary process, successfully filed suit against DPA to block its implementation.

More recently, SPB challenged the "post and bid" provisions of the State's contract with three bargaining units. Post and bid refers to a system where a supervisor is required to hire and promote employees in certain occupations solely on the basis of seniority. SPB objected that this violated the merit system in that no other performance related or merit based factors would be considered. This would ultimately result, they contended, in a less qualified workforce, and have an adverse impact on women and minorities (SPB 2002b). DPA did not view it this way. Rather, from their perspective the requirement that the selection be made from the list of eligibles ensured qualifications had already been evaluated. So why not select the candidate with the most experience? In July, SPB won a restraining order in Superior Court.

Partly in response to the post and bid controversy, SPB recently held a hearing on a new rule that would explicitly define merit and hold that the SPB's authority over the selection process encompasses all activities from recruitment and advertising to the end of the civil service probation period (SPB 2002c). SPB had expected unions to support the rule as it states explicitly that selections must be based solely on qualifications, restricting possible subjectivity on the part of the selecting official. Instead, the unions objected to the new rule, claiming it would discriminate against women and people of color. DPA also stated its opposition to the rule.

So the broad scope of bargaining enjoyed by the unions means that reform almost has to come through the negotiation process. But these examples suggest that when such changes are agreed to, SPB may well object.

Another possible inroad to reform could be through demonstration projects, which SPB has had the authority to conduct and evaluate since 1980. The purpose of these projects is to test new personnel management practices for a period of five years, with a view to making them permanent if they appear to be successful, and all parties agree. To date, however, the only legislative change resulting from these projects was AB 1399, passed in 1999, which requires that agencies obtain written agreements from supervisors before implementing demonstrations that would affect them (they are already required to seek union concurrence for demos that affect rank-and-file employees) This legislation represented a compromise with the unions who sought to abolish demonstration projects.

Another obstacle to reform is an apparent lack of interest on the part of the State Assembly or Senate. These elected representatives and their staff take their cues from organized constituencies and the only one in the civil service arena is the union. Neither the union nor anyone else is rallying for civil service reform. Moreover, the civil service system is very complex, and the expertise to tackle it does not exist in the legislature, particularly now that term limits are in place.

In 1999, the LHC issued a second report with the purpose of recommending a "process though which top leaders and rank-and-file workers can cooperatively determine the precise changes that are needed and how those changes will be made" (LHC 1999, iv). The report urged the State's top leaders to work cooperatively with managers and employees to create a shared understanding of how the personnel system should operate in the public interest. This laudable recommendation would, at a minimum, require a leader to step in and create a vision that legislators, the governor and all the agencies with roles in the civil service system would accept. It would also require that damaged relationships between management and labor, and between DPA and SPB be rebuilt. Such leadership does not appear to be forthcoming.

Conclusion

It is clear that any major reform in California's civil service system will not be within reach in the near future. One reason is the fundamental tension between centralized merit system and collective bargaining process, as personified in the two agencies representing these two interests. Of these two, the SPB, protector of the merit system, can better withstand pressure for reform (or dissolution) because it is "enshrined" in the State Constitution. But the majority of the civil service system is subject to bargaining, and SPB has objected to reforms agreed to by management and labor. The history of agency abuse of the merit system when hiring was decentralized, along with the low regard in which some unions hold some agencies, reinforces the importance of its role in state human resource management. While the DPA attempts to maintain an equilibrium between management and labor, an anti-labor governor like Pete Wilson can undermine that effort by forcefully challenging the presumptive rights of employees to organize and indeed, to keep their jobs. Ironically, a pro-labor governor like Gray Davis, can undermine reform as well by refusing to engage the unions in debate on the subject.

The call for reform has only been heard from outside evaluators and disgruntled personnel officials, without the constituency or momentum to translate their recommendations into legislative change. Having withstood a poor economy (in the early 1990s), the reinventing government movement in its zenith, and calls for change on the part of two respected entities (the LHC and LAO), it is difficult to see what, if anything could propel this state toward significant reform. Even the renewed attention to the importance of "human capital" (Walker 2000) and the need to ensure that human resource management systems are designed to maximize the contribution and development of these assets is unlikely to generate enough momentum for reform in the

golden state. As Wallace Sayer observed in 1948, “Here, too, one may conclude that the ends have been made captive by the means”.

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