

Executive Summary

California's civil service system, established to protect the public and state employees from political corruption, has mutated into a bureaucracy within a bureaucracy -- one that is rigid, duplicative and unresponsive. The civil service rules at times prevent the State from going about the public's business in a cost-effective manner. And regulations stifle the enterprise that can lead both individuals and organizations to success.

The overriding problem is that the state personnel system suffers from a split personality: The civil service protections administered and enforced by the State Personnel Board were created more than 60 years ago to eliminate the scandals of patronage and shield workers from political retaliation. Twenty years ago, those procedures were complicated by the advent of collective bargaining, resulting in negotiations between unions and the Department of Personnel Administration on the terms and conditions of employment.

The Little Hoover Commission believes the State Personnel Board is obsolete, protection against a bygone enemy, and should be eliminated. In turn, the State should more fully embrace collective

bargaining as the primary venue for defining and improving the relationship between management and labor.

At the bargaining table and through legislation, the State must abolish the redundant, and therefore unneeded, civil service protections that make it difficult to recruit, promote and reward good workers and even harder to punish, demote and terminate bad ones.

The State must delegate authority to managers, and give them the skills and incentives to be leaders. The future of California government rests largely in the hands of its managers, and the State must recruit from the best and intensively train them for the difficult task of leading the State into the next century. Minimum standards and a system of accounting must be established for management training, and training must be tied to performance evaluations and compensation.

State managers also must have at their disposal the talents, energy and efficiency of the private sector. It is no longer appropriate for the civil service to have a monopoly on public work, and competition for that work is a proven way to stretch the resources of the State.

And finally, for innovation to take root, there must be more cooperation between labor and management.

In short, to improve the delivery of government services, the State's work force must be managed more like the private-sector work force.

The Commission recognizes that there remains a public interest in ensuring fair competition for government jobs, appointments and promotions based on qualifications, and equal pay for equal work. It also anticipates disputes over the fairness and equity of implemented reforms, and to facilitate change a single, expeditious forum -- either arbitration or an independent panel -- is needed for resolving those claims.

If California government is to rise to the challenges created by new technologies and a changing society, fundamental reforms must be made to the civil service system. It is a necessity of the times.

The Commission first addressed this issue 16 years ago at the request of then-Governor Edmund G. Brown Jr. At that time, the Commission foresaw the duplication and conflict between those traditionally charged with administering the civil service system and those assuming the new role as executive negotiator. But the Commission's recommendation to curtail the traditional duties of the Personnel Board was not followed.

Unheeded advice offers no rewards. Likewise, there will be no satisfaction for Californians, including state employees, until reform is achieved.

In pursuit of those reforms, the Little Hoover Commission has reached the following findings and makes the following recommendations:

Finding 1: There is overlap and conflict between the State Personnel Board, steward of the traditional civil service system, and the Department of Personnel Administration, which is charged with the expanding role of union contract negotiator for the Executive Branch.

The principal redundancy in the civil service system is between the quasi-judicial State Personnel Board and the Department of Personnel Administration. The overlap covers the important public employment issues of classifying, selecting and disciplining employees. There also is overlap between the Personnel Board and the Department of Fair Employment and Housing over discrimination complaints. The duplication wastes scarce resources and hinders reforms.

Recommendation 1: The Personnel Board should be eliminated. Oversight of personnel management and central leadership should be assigned to the Department of Personnel Administration. A new forum, either arbitration or a combination of arbitration and an appeal board for issues of favoritism, patronage and discrimination, should be established as the sole and final venue

for resolving worker appeals of management actions.

Article VII of the Constitution should be amended to eliminate the State Personnel Board. The Governor and Legislature should enact legislation to consolidate personnel management authority in the Department of Personnel Administration. Civil service workers should be entitled to a single appeal of management actions, eliminating the multiple appeals currently allowed to the State Personnel Board, the Department of Fair Employment and Housing, the Public Employment Relations Board and the courts. The Commission believes that one of two appeals processes -- binding arbitration or a combination of arbitration and a new appeal board -- should be established as the sole and final venue for resolving disputes and enforcing statutory prohibitions against favoritism, patronage and discrimination.

Finding 2: State departments are hamstrung by the requirement that internal personnel management rules and negotiated agreements be submitted to the Office of Administrative Law, resulting in significant delays of personnel changes.

The Administrative Procedure Act is an important tool for protecting the public from bad regulations. But California's rule-making process is one of the most rigorous in the nation. When it is applied to the rules that state government creates to manage itself it reduces discretion, discourages reforms and stymies timely action.

Recommendation 2: The Governor and the Legislature should enact legislation to eliminate review by the Office of Administrative Law of rules, regulations and negotiated agreements relating to the internal personnel administration of the State.

A constant tension defines civil service: The need to balance public interest in how government functions with the need for government to function with business-like efficiency. While the Office of Administrative Law offers a valuable service in reviewing rules applicable to the general public, the review requirement for internal

personnel administration creates a costly burden on state government.

Finding 3: The concept that all state employees belong to one civil service is fiction. Different departments have different missions, clientele and needs. The centralized system hinders cost-efficient management, complicates procedures, discourages experimentation and masks accountability.

It may have been appropriate half a century ago to consider all state employees to be part of the same civil service corps, but centralized controls are too burdensome and costly for the widely diverse agencies striving to accomplish more with fewer resources.

Recommendation 3: The Governor and the Legislature should enact legislation allowing the Department of Personnel Administration to delegate to individual departments more authority over classification, selection, discipline, compensation and layoff procedures. The legislation also should encourage more demonstration projects to foster reforms.

The legislation should delegate to departments authority over the classification, examination and selection processes. The Department of Personnel Administration should craft guidelines enabling departments to swiftly and effectively assume more responsibility over those functions. The legislation should ease and encourage more demonstration projects and enable successful experiments to become permanent.

Finding 4: Many state managers lack the authority, leadership skills and incentives needed to create a positive work environment and deal effectively with employees.

Many managers are promoted because of strong technical skills, rather than the skills needed to be effective managers. The authority of managers is usurped by the complex and centralized civil service structure. A trained and inspired management corps is especially needed in state government to make agencies more efficient and effective. For departments to turn managers into leaders, they must be granted more authority, trained to accomplish

the task and provided incentives for taking on the challenge. While these are common traits in successful organizations, they are particularly lacking in state government.

Recommendation 4: The Governor and the Legislature should enact legislation expanding the Career Executive Assignment program to include all managers and supervisors. Legislation should be enacted allowing for recruitment of managers and supervisors from outside state service, and broadening pay-for-performance programs. Training should be given the highest priority and embraced as a bipartisan concept. Departments should fund training with minimum line items in their budgets and should report to the Legislature annually on the scope and nature of their training efforts.

The State's management team should be strengthened by better defining the distinctions -- including pay, benefits, tenure and training -- between managers, supervisors and rank-and-file employees. The Department of Personnel Administration must also exercise a leadership role to impress on senior and junior managers the importance of learning new techniques and reforming the system.

Finding 5: A complicated disciplinary process discourages pro-active management of employee performance. In addition, the system for handling disciplinary appeals is unnecessarily costly and burdensome.

Minor disciplinary actions are treated the same as serious ones and can be easily appealed. As a result, the resolution of major disciplinary actions is delayed for months. Duplications and complexity in the procedures discourage managers from taking disciplinary actions when they are warranted. A central cause of this dysfunction is the insistence of the State Personnel Board on reviewing all appealed actions through its quasi-judicial hearing process.

Recommendation 5: The Department of Personnel Administration and employee unions should negotiate alternative procedures, such as arbitration and mediation, for resolving disputed discipline actions. The Governor and the Legislature should enact legislation to implement the negotiated solution as the sole venue for resolving major disputes.

Minor disciplinary actions are a management right and should not be appealable. Minor disciplinary actions are those that do not directly affect the status of an employee, such as letters of reprimand and suspensions of five days or less. For major disciplinary actions, management and labor should negotiate mediation or arbitration procedures for resolving appealed disciplinary actions, with the formality of the process reflecting the gravity of the action. As a condition of employment, employees should waive their right to appeal the decisions of the administrative process to any other venue, including the courts. DPA should impose that same process on non-union employees.

Finding 6: Tenure and automatic pay raises have outlived their usefulness and are counterproductive to achieving effective and efficient government service.

The guarantee of permanent employment and automatic pay raises virtually eliminates the most basic of incentives and disincentives at play in most work places. The protections contribute to the public's negative image of civil servants and their waning support for government.

Recommendation 6: Article VII of the Constitution and applicable statutes should be amended to eliminate the presumption of permanent tenure. The Department of Personnel Administration should work through negotiations to eliminate automatic pay raises and to link salary adjustments to performance.

Tenure -- implied in the Constitution, defined in statute and solidified by the courts -- should be abolished for all state employees. Future definitions of employee status, along with more flexible compensation procedures, should be negotiated between labor and management. The Governor and the Legislature should enact legislation necessary to implement the negotiated settlement.

Finding 7: **State managers are constrained from contracting out. The public interest in government efficiency is usurped by an overly protective civil service system.**

Restrictions on the State contracting with private firms to do public work are complex far beyond what is needed to ensure that the State's resources are wisely used. The courts have interpreted Article VII of the Constitution to mean that only those tasks that cannot be performed by civil servants may be contracted to private firms. That decision has spawned a set of complicated guidelines that, along with union resistance, have further fueled the debate over contracting. One result is that state managers are limited in their efforts to put the State's assets -- including the civil service corps -- to their highest and best use.

Recommendation 7: Article VII of the Constitution should be amended to remove the presumption that the State's work must be performed by civil servants and to specifically allow contracting with private firms to do public work.

The State needs to find more cost-effective ways of doing business, and it cannot be precluded from looking to the private sector for that efficiency. If managers are to be responsible for improving performance, they need the flexibility to have state work performed in the most economical way possible. If civil servants are to come to terms with and ultimately benefit from a more competitive environment, a rational approach must be devised for evaluating the alternatives and, when appropriate, awarding private contracts while minimizing the consequences to dedicated workers.

Finding 8: As in the private sector, the success of public sector enterprise requires management-labor cooperation, communication, trust and a willingness to work together to resolve mutual problems.

Tight budget times have aggravated animosities between management and labor, ironically at a time when cooperation is most needed to make government efficient and responsive to the changing needs of Californians.

Recommendation 8: The Governor should issue an executive order to foster cooperation between management and labor by establishing management-labor advisory committees. The Governor and the Legislature should enact legislation to repeal laws that dictate employment provisions typically covered by labor contracts.

The executive order should direct DPA and all other departments to experiment with new ways to improve management-labor relations. The goal would be to promote stronger communications and cooperation. DPA should form management-labor advisory committees to exchange information on innovative public sector management, offer advice, suggest demonstration projects and report to the Legislature.