

PERSONNEL MANAGEMENT IN THE STATE SERVICE

SUMMARY OF FINDINGS AND RECOMMENDATIONS

CHAPTER I

INTRODUCTION: HISTORICAL BACKGROUND AND METHODOLOGY

As a reform move aimed at ending the practice of patronage raids on civil service by successive State administrations, California voters in 1934 approved an amendment to the State Constitution which created an independent State Personnel Board and required that civil service be governed by "a general system based on merit, fitness and efficiency ascertained by competitive examination." Under the provisions of this constitutional article and the Civil Service Act of 1937 (as amended), the State Personnel Board (SPB), consisting of five members appointed for ten year terms on a staggered basis, was established as a policy, administrative, investigatory and appellate body for personnel management. The Board was endowed with broad authority over every major aspect of personnel administration including recruitment, examination, selection and promotion. Prior to the 1970s, the civil service system administered by SPB was essentially based upon selecting, promoting and retaining the best qualified individuals who made themselves available for evaluation by conscientiously applied objective standards insulated from the pressures of political patronage.

However, new ideas on the application of merit began to emerge with the Civil Rights Act of 1964 and subsequent Federal and State actions regarding discrimination, affirmative action and test criteria. These ideas expanded definitions of "merit" and guarantees of individual rights, thus bringing new concepts into day-to-day administration of personnel management in the State and straining traditional organizational roles and functions. In 1977, a fundamental conceptual break in the State's management of personnel was occasioned by the passage of the State Employer-Employee Relations Act (SEERA) which established collective bargaining for State employees and thoroughly reoriented the personnel management functions of the State Personnel Board and the Governor's Office. The cross-currents of SEERA, the expanded meaning of merit and changes in the traditional operations of civil service now press for a comprehensive reevaluation and restructuring of the State's personnel management structure.

With knowledge of its historical context, we began our study of California's Civil Service System. The study involved five distinct parts:

1. Eliciting employee responses to specific questionnaire statements concerning merit and the State's career system.
2. Analyzing the classification system and the recruitment and selection, recognition and development, and discipline and appeals of employees in the light of the old and new concepts of "merit."
3. Evaluating the impact of the State Employer-Employee Relations Act of 1977 (SEERA) on responsibility for pay decisions.
4. Studying the State's overall organization structure for personnel management and employee relations.
5. Examining provisions of laws and court decisions, and evaluating their relationship to subsequent State administrative practices with respect to "contracting out" of personal services.

CHAPTER II

THE IMPACT OF THE STATE EMPLOYER-EMPLOYEE RELATIONS

The State Employer-Employee Relations Act (SEERA) became effective July 1, 1978 and established a process--not yet fully implemented--for determining State employee wages and other conditions of employment through collective bargaining. The passage of SEERA has created a fundamental change in both the concept and the administration of personnel management in State government. Under SEERA's provisions, there will be basic alterations in the roles and responsibilities of the Governor's Office, State Personnel Board (SPB), the Department of Finance and the Legislature in setting employee compensation and working conditions. Consequently, some form of administrative accommodation--possibly in conjunction with or followed by legislative action--must occur.

Even at this early stage we discern immediate and future effects of SEERA on administrative and legislative decision-making processes, salary and working relationships between managers and employees, and the structure of the traditional career concept in civil service. In adjusting to these effects, the State should not permit itself to stumble from one unrelated decision to another as it veers toward new paths in personnel management. It should take sight of a forward objective and make a conscious determination regarding the complete route it proposes to follow.

- The State should evaluate carefully the full workload requirements of administering SEERA and provide the resources necessary to meet those requirements.
- Statutorily designated personnel management functions such as training and establishing standards for performance evaluation presently handled by the SPB should be transferred to the Office of Employee Relations (OER)--the agency now existing under the Governor which will represent the Governor in collective bargaining negotiations--through the Governor-initiated reorganization plan as outlined in Chapter III.
- OER, the Department of Finance and SPB should immediately begin to coordinate their involvement in areas of mutual responsibility affected by collective bargaining.

CHAPTER III

ORGANIZATION FOR PERSONNEL MANAGEMENT

In 1977 the Legislature enacted affirmative action guarantees for State employees and injected formal employee relations procedures between the Governor and employee organizations representing those employees. These put strains on the State's current civil service organizational structure which cannot be corrected by patchwork. It is our opinion that only a new overall structure will assure (a) critically needed coordination by, and accountability of, the Governor for the State's personnel management, and (b) adequate and coordinated attention to employee equity and citizen apprehension that merit administration is being avoided. Because the overhaul must be fundamental, it should be completed in two coordinated phases: first, a Governor-initiated reorganization; second, a Constitutional Amendment followed by an additional Governor-initiated reorganization plan.

- Phase I: Governor-Initiated Reorganization

A Cabinet-level Department of Personnel Management should be established and to this Department should be transferred various personnel management and administrative functions presently spread among the Department of Finance, OER, Department of General Services and the Board of Control. Statutorily designated personnel management functions now housed in SPB should also be placed under the responsibility of the Department. In addition, Advisory Councils should be established so that supervisors and managers have a regular channel to give to the Director of Personnel Management the benefit of their knowledge of actual operations and their reactions to policies affecting those operations.

● Phase II: Constitutional Changes

Because many personnel management functions are currently assigned to SPB by the State Constitution, it will be necessary for the voters of California to approve a revision of Article VII of the Constitution in order to fully consolidate personnel management responsibility within a Department of Personnel Management. The Constitutional revision we recommend would:

- reaffirm the principle of a civil service system based on merit and designed to promote and increase the economy and effectiveness of State service;
- delete the SPB from the Constitution thus enabling transfer to the Department of Personnel Management those personnel management functions now constitutionally assigned to SPB;
- establish an Employee Equity Board providing it with the power to (a) adjudicate appeals and conduct investigations relating to any alleged violations of merit principles or equal opportunity employment provisions, and (b) to serve as a neutral third party in the administration of collective bargaining and labor agreements between the State and employee organizations.

CHAPTER IV

POSITION CLASSIFICATION

The essential objective of a classification plan is to ensure "equal pay for equal work" by grouping and categorizing job positions in such a way that all positions which have sufficiently similar duties and responsibilities are given the same title and require for their satisfactory performance the same knowledge and skills so that the same range of salary can be applied with equity to persons working in those positions. A classification plan provides a foundation from which to design selection instruments, a basis for recruitment and replacement programs, a base on which training programs may be designed, guidelines for the career advancement of employees, and a basis for manpower utilization and planning. A sound classification plan is, therefore, a highly useful management tool.

Although classification in the State service is better than in the Federal government and many states, there are deficiencies in its administration. There are far too many narrowly drawn classes and this increases the complexity and cost of managing the personnel system. Current procedures for monitoring classification authority delegated to departments which are designed to identify "grade creep" and under-utilization of positions are not fully adequate. Where SPB has retained direct authority for approving classifications, its responses to departmental requests for position classifications are not timely.

- The present classification structure should be reviewed with an objective of eliminating and consolidating classes followed by a strengthened and continuous program of post-audits.
- Departments should be delegated more of the classification function and be subject to periodic reviews of their programs.
- Legislation should be enacted permitting an employee to be compensated additionally when officially assigned by management to new and increased responsibilities involving a higher class.
- Position classification should be more closely related to the budget process in position control.
- An Ad Hoc Advisory Group should be established for each of the Occupational Groups in the classification plan to assist in plan revision.

CHAPTER V

SELECTION

Most of the recent reviews of the State's selection system have recommended organizational, system, or procedural changes to improve the process. Legitimate though they be, the problem calls for more sweeping change. The present complicated web of "safeguards" is more form than substance. It neither permits managers to manage nor provides employees adequate protection against abuse.

The primary objectives of a staffing function in a public agency include the following: merit and professional selection and promotion; representativeness in workforce; simplification and modernization available with today's "state of the art" and technology; quality and timeliness; and attention to cost.

The present selection system of the State, administered by SPB and by operating agencies, must be assessed against these objectives. In particular, it must reflect an appropriate system in a newly established collective bargaining environment in which bilateralism has considerable impact on merit system concepts; and it must address affirmative action directly.

The present State system represents diffused authority--an enemy to accountability. In spite of the best efforts of the SPB, neither those responsible for the management of State functions and operations nor those entrusted with carrying out its missions are satisfied with the way appointments and promotions are handled. This dissatisfaction stems from procedural complexities, rigid directives, and the delays and long time span involved in completing personnel transactions.

The Governor and Executive Branch executives must be accountable for the selection of employees and the level of their performance on the job. This is integral to political accountability for the administration of the State government.

- Personnel management functions at the operating agency and departmental level need to be strengthened and responsibility for decisions clearly placed there (subject to inspections and audits) by delegating selection decision-making, both in content and process, to that level.
- The State should recognize the need for a new personnel management approach based upon a three-tiered organizational concept of the workforce--manager, supervisors, employees. Each tier has different characteristics as a part of the workforce both because of their inherent roles and their status under SEERA. In selection, different procedures should be utilized for each tier.
- Within reasonable percentage limits, there should be more opportunity for entrance into State service at supervisory and management levels, thus affording department directors the ability to draw upon qualified personnel from outside.
- The State should utilize internships more fully by following the example of the Federal government's Presidential Management Intern Program.

CHAPTER VI

EVALUATION AND REWARDS

The purpose of employee performance evaluation and reward programs is to help assure that the workforce is performing at optimum levels of efficiency and effectiveness. Our analysis of the State's performance appraisal program in fulfilling this purpose essentially concurs with the conclusions of an as-yet-unreleased 1978 SPB study of that program. In essence, our conclusion is that the program is not working: managers and supervisors generally lack training in properly utilizing the performance appraisal process; established appraisal criteria often are too vaguely defined to be meaningful for performance evaluation purposes; supervisors and managers fail to continuously evaluate employees; SPB does not currently audit or enforce required performance appraisal activities.

With respect to the State's awards and merit salary adjustment programs, we find that the monetary and other incentives offered for superior performance are inadequate to inspire anything beyond a "satisfactory" level of performance.

- Performance appraisals should be the basis for any true merit increase awards, the tool used to determine training and development needs, and the justification for removal from a position with resulting demotion or separation from the State service.
- Meaningful performance appraisal plans should be developed for managers, supervisors and rank-and-file employees. Evaluation criteria should be job-related and emphasize performance factors critical to job success.
- Employees, supervisors and managers should be trained in the techniques of evaluation and the application of a performance appraisal system.
- Periodic audits of performance appraisal in the departments and agencies should be conducted to ensure that good job performance is reinforced, outstanding performance is recognized, and less than satisfactory performance is remedied either by correction, demotion or separation from service.

CHAPTER VII

TRAINING

Training cannot be treated as though it is an independent function with a program of its own. It is an integral part of management, which relies upon specialized expertise for assistance in order that employees and managers may achieve improved understanding of State and departmental policies, concepts, and programs, acquire greater knowledge and skill in job performance, and understand and accept the factors at play in their work environment. We agree with the conclusion of a 1977 State Auditor General's Report that there is an "insufficiency of leadership in the training of State employees."

- The Governor should ensure that departments assess and provide adequately for their training needs as an essential resource to line operations.
- An Advisory Council of Managers should be established for coordinating training plans within the State service; and, through an Advisory Council of Supervisors, for exchanges of information on problems and solutions in course implementation.
- The conduct of courses should be based on the premise that those who manage programs should also manage the development and training of their staff. Funds for training should be appropriated to the program agencies, and costs should be identifiable budget items of those agencies. In the case of program and technical training, the agencies should have the option of producing the training or contracting for training on the basis of negotiated specifications.

CHAPTER VIII

DISCIPLINE

By and large the policies and actual practices of employee discipline appear to be working constructively throughout the civil service. However, we believe that, in legislative guidance and administrative rule-making, changes are required to give proper direction to supervisors and managers in this function, probably the most trying of all of their management duties.

- Management at all levels, from the Governor through his appointed executives on down, should establish clearly with supervisors the level of work performance which will be considered satisfactory during the probationary period and thereafter.
- Current criteria for dismissals should be amended to allow for separation of an employee on a "substantial evidence" basis of failure to meet performance standards.
- Departmental regulations on discipline should be simplified and clarified.

CHAPTER IX

APPELLATE PROCESS

In general, the employees, supervisors, and managers of the State government perceive that, with the possible exception of the handicapped, the affirmative action program has been successful in achieving objectives of increased employment, promotion and pay for, and reduced discrimination against minorities and the handicapped. (It must be noted, however, that nearly half the respondents to the employee questionnaire expressed the perception that white employees are less than fairly and equitably treated in personnel management, and roughly half the managerial respondents felt that this was also true for women.)

The general feeling of the fairness and uniformity in the handling of individual grievances and appeals disappears, however, when employees, supervisors, and managers consider whether they are well informed about employee rights and concerns, whether grievance and appeals procedures are clear and understandable, and whether the system is simple or complicated. Almost 55% of the employees believe that these add up to a situation in which the cards are stacked against them better than half the time when they submit grievances or appeals.

- Regulations and procedures on grievances and appeals should be clarified and simplified.
- Plans already developed to improve hearing officer reports on appeals of adverse actions should be implemented.
- To help ensure equal opportunity employment throughout State service, departments should be required to furnish--without setting up an elaborate reporting system--data necessary to evaluate the effectiveness of their processes for handling discrimination complaints.

CHAPTER X

SHOULD CONTRACTING FOR PERSONAL SERVICES BE GIVEN DE JURE STATUS?

In spite of acrimony since 1937, the way determinations are made on requests by departments for personal service and/or consultant contracts, within the meaning of the Constitution, State law, and refining court decisions, is, in the last analysis, a subjective judgment. This follows analysis of each request, and is based on precedent and operating experience rather than a precise legal definition. The review process involves a troika of State approval agencies and untold time in reviewing, negotiating as necessary, and deciding--an effort largely if not completely unnecessary in relation to value produced.

- Restraints and red tape on contracting out already taking place should be removed and the State should be provided with a basis to determine whether, and in what areas of work, contracting for State-required services can produce the economies and efficiencies claimed for it by its proponents.
- A Constitutional Amendment should be enacted authorizing the Legislature to provide for performance of governmental services by independent contractors whenever it is to the financial advantage of the State government to do so and advantages in efficiency, timeliness, or quality of State work can be demonstrated.
- Following adoption of this Constitutional Amendment, the Legislature should enact at an early date broad legislation designating the areas within which personal service contracting will be permissible.
- Should such a Constitutional Amendment fail enactment and adoption, the Legislature should nevertheless enact legislation to identify areas of permissible personal service/consultant contract authority to the extent possible within court interpretations of Constitutional provisions rather than to place State agencies and departments in the position of having to continue present undesirable and costly practices.