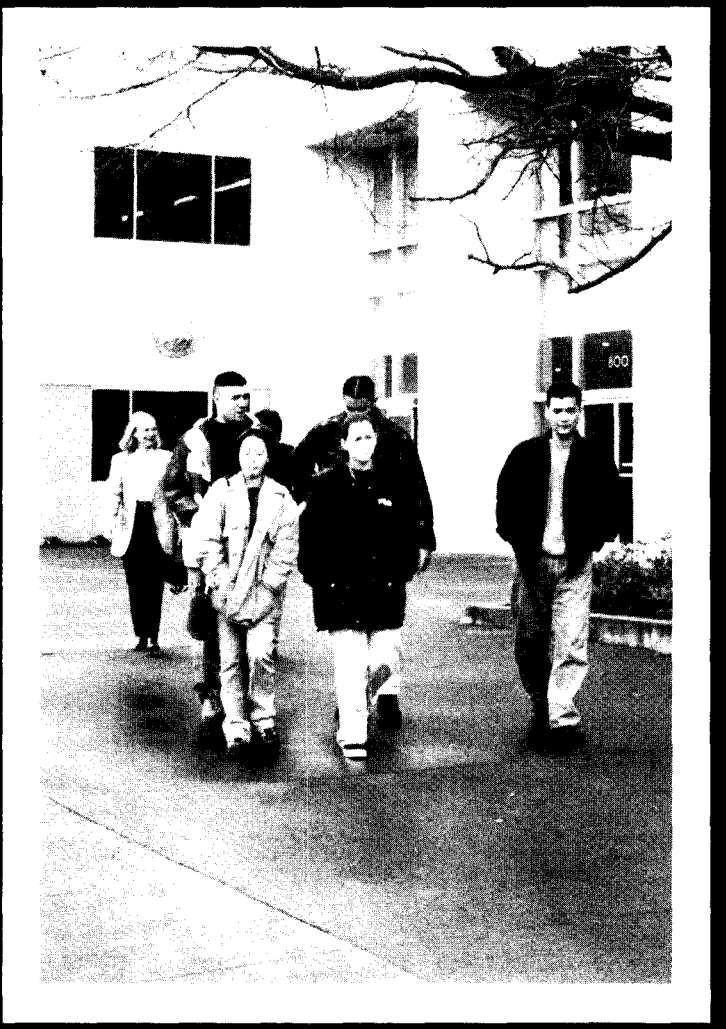
LITTLE HOOVER COMMISSION



OF THE PEOPLE, BY THE PEOPLE: PRINCIPLES FOR COOPERATIVE CIVIL SERVICE REFORM

January 1999

Little Hoover Commission

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Sally Havice
Assemblymember

Gary H. Hunt

Gwen Moore

Angie Papadakis

The Honorable
John Vasconcellos
Senator

Sean Walsh

Stanley R. Zax

Civil Service Subcommittee

✦ ✦ ✦ ✦ ✦ ✦

Carl D. Covitz
Chairman

Michael E. Alpert

Gwen Moore

Angie Papadakis

Commission Staff

✦ ✦ ✦ ✦ ✦ ✦

Jeannine L. English
Executive Director

James P. Mayer
Deputy Executive Director

To Promote Economy and Efficiency

The Little Hoover Commission, formally known as the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, is an independent state oversight agency.

By statute, the Commission is a bipartisan board composed of five citizen members appointed by the Governor, four citizen members appointed by the Legislature, two Senators and two Assemblymembers.

In creating the Commission in 1962, the Legislature declared its purpose:

...to secure assistance for the Governor and itself in promoting economy, efficiency and improved services in the transaction of the public business in the various departments, agencies and instrumentalities of the executive branch of the state government, and in making the operation of all state departments, agencies and instrumentalities, and all expenditures of public funds, more directly responsive to the wishes of the people as expressed by their elected representatives...

The Commission fulfills this charge by listening to the public, consulting with the experts and conferring with the wise. In the course of its investigations, the Commission typically empanels advisory committees, conducts public hearings and visits government operations in action.

Its conclusions are submitted to the Governor and the Legislature for their consideration. Recommendations often take the form of legislation, which the Commission supports through the legislative process.

Contacting the Commission and Copies of Reports

All correspondence should be addressed to the Commission at:

- 925 L St., Suite 805, Sacramento CA 95814
- E-mail: little.hoover@lhc.ca.gov
- Telephone: (916) 445-2125 Fax: (916) 322-7709
- Worldwide Web: www.lhc.ca.gov

Additional Copies of this report may be purchased for $5 per copy. The report is available on the Commission's website.

State of California

LITTLE HOOVER COMMISSION

January 28, 1999

The Honorable Gray Davis
Governor of California

The Honorable John Burton
President Pro Tempore of the Senate
and members of the Senate

The Honorable Ross Johnson
Senate Minority Leader

The Honorable Antonio Villaraigosa
Speaker of the Assembly
and members of the Assembly

The Honorable Rod Pacheco
Assembly Minority Leader

Dear Governor and members of the Legislature:

Every new administration faces a defining moment when it must establish its agenda and set its priorities. What should we do? And what should we do first?

The Little Hoover Commission, in this report, urges newly elected and re-elected policy makers to consider a more fundamental issue: How will state agencies implement the initiatives of this new government?

California's executive branch departments are laboring under a personnel system that is increasingly complex and dysfunctional. Public agencies do not have the capacity to recruit, select, train and manage the workforce needed to transform good policy into good programs.

The costs are high: in resources consumed by the internal machinations of a sluggish personnel bureaucracy, and more importantly, in the lost opportunities to efficiently provide high-quality public services.

In 1995 this Commission recommended specific reforms that it believes would streamline the oversight, improve the management, and restore flexibility to a rule-bound and duplicative personnel structure. Those 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.

But disagreement over what changes should be made does not mean that change is not needed. And the transition of administrations by itself is not enough to remedy the organizational and procedural problems that confound the personnel system.

Milton Marks Commission on California State Government Organization and Economy ♦http://www.lhc.ca.gov/lhc.htm

925 L Street, Suite 805 ♦ Sacramento, CA 95814 ♦ 916-445-2125 ♦ *fax* 916-322-7709 ♦ *e-mail* little.hoover@lhc.ca.gov

The Little Hoover Commission still believes that reforming the State's human resource infrastructure is a bedrock concern. In virtually every program reviewed by this Commission in recent years, progress has been muted by the limited ability of state managers to get the right people in the right place, with the right skills and incentives to do the job.

In conducting this review the Commission wanted to assess the possibilities for change. And it found hope. Other state and municipal governments have found ways to reconstruct failing personnel systems and to heal poor labor relations. In virtually all of these cases, reforms were predicated on a universal commitment to find mutually acceptable ways to improve services to the public. The harvest of their labor was tangible: lower costs and better programs.

In short, unless we change how we conduct business, the wisest reforms and the largest investments of funds will not yield the desired outcomes. The dedication, ambition and skills of public employees are the essential ingredients of effective public programs. The success of future policies will rest on our ability to apply those assets toward advancing the public interest.

The Little Hoover Commission stands ready to assist you in this effort.

Sincerely,

Richard R. Terzian
Chairman

Of the People, By the People:

Principles for Cooperative Civil Service Reform

January 1999

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Executive Summary

Executive Summary

As the new century nears, California faces enormous public challenges: Educating our children to flourish in a future economy. Protecting our communities from timeless enemies of violence and disease. Watching out for those who cannot watch out for themselves. Nearly all of these essential assignments are entrusted to public employees.

The state employs 276,000 people. More than half of these are civil servants assigned to executive branch agencies. They are doctors, lawyers, engineers and biologists. They are painters, plumbers and printers. They fight wildfires and crime, poverty and pollution.

In large measure, the success of public endeavors relies upon these workers as individuals and upon public agencies as teams of individuals.

Despite the overwhelming importance of the State's human resources, the State has struggled and failed to modernize the procedures and practices for recruiting, selecting, training, and managing the people who are the collective face of California government.

One consequence of this failure is ubiquitous frustration: lawmakers and elected and appointed officials are frustrated that innovative new policies are not implemented with the ambition with which they were conceived. Public managers are frustrated by an organizational sclerosis that thwarts the potential of their programs. Rank-and-file workers are frustrated that anachronistic procedures diminish their ability to serve the public as they have dedicated their careers to doing.

Most importantly, the public – as consumers, taxpayers, and citizens – have come to expect less and less from government. This eroding confidence washes away moral and financial support, along with our shared sense of purpose.

As the new century approaches, and with a new executive administration and Legislature, the State has the opportunity to fundamentally rethink how it puts people to work doing the public's business. The State's response to this opportunity will impact virtually every other initiative generated by this new government.

Civil Service reform, as this topic is often called, is not a new issue. Rather, it is an old battleground. The latent irony is that had there been victories, they would have lacked the broad support necessary for successfully implementing organizational change.

Where real change has occurred, it has been the product of cooperation. Big and small, the successes reveal the potential for transforming stagnant bureaucracies into high performance organizations that better serve their communities.

For that reason, this report differs from previous Commission products, including the 1995 recommendations concerning the civil service. Rather than enumerating specific and detailed reforms, the Commission recommends a process through which top leaders and rank-and-file workers can cooperatively determine the precise changes that are needed and how those changes will be made. This process and some of the fundamental challenges that need to be addressed are expressed as "Principles for Reform."

In preparing this report, the Commission relied heavily on the suggestions of an advisory committee comprised of all of the interested parties – each of them weary of the civil service wars and eager for collaborative change. The Commission also relied on the success experienced on a small scale in California and on a larger scale in cities, other states and in federal agencies. Those public agencies share a similar history and face the same challenges. By listening to them, and each other, the State can balance legitimate and competing interests and learn better ways to perform the public's work. Distilled, the stories teach two primary lessons:

- ***The best changes were cooperatively crafted.*** Elected officials, union leaders, managers and rank-and-file workers must all be involved in defining the problems and crafting the solutions. Just as reforms cannot be forged in battle, they can only be defined by those responsible for making them work. For many particular problems, there is more than one technically right answer. In this instance, the "right" answer is the one that everyone can agree to.

- ***The public interest is the overriding goal.*** The civil service system was intended to protect the public from patronage. It did this by protecting the workforce from undo political meddling. As mutated, the system does not protect the taxpayer because it does not encourage performance. And as public support erodes, the system does not protect the worker either. The lodestar for reforms must be a shared responsibility shouldered by labor, management, elected and appointed officials to efficiently and effectively conduct the public's business.

The process for reform described in this report relies on two instruments for change: First, an executive-level council for establishing and articulating a vision, for guiding and supporting detailed reform efforts at the workplace level, and for formalizing systematic reforms once they are derived. The second venue is workplace-level committees, where rank-and-file and management employees can identify specific problems and agree on specific solutions. The process, which is described in the first two Principles for Reform, is illustrated at the end of this summary.

The report also identifies problems that are common throughout the executive branch agencies, and identifies principles for reform that are intended to initiate the deliberative work ahead.

Respectfully, the Commission urges all of those entrusted with the work of the State to embrace the following:

PRINCIPLE FOR REFORM 1: EXECUTIVE VISION

Before specific reforms can be crafted, and for those reforms to be effective, the State's top leaders need a shared understanding of how the overall personnel system should help individual departments fulfill their particular missions.

- ***Clarify values and goals.*** The vision should clarify commonly held values and define desired outcomes. These values and desired outcomes should guide the reform process.

- ***Build a foundation of trust.*** The initial vision, by necessity, may have to be vague -- allowing the specifics to be added as trust is developed, a mutually acceptable understanding of the problems are defined and detailed reforms can be derived.

- ***Balance protections and flexibility.*** The vision must address the tension that exists between the rule-based protections that are intended to guard against patronage and fiscal abuse and the flexibility required for performance by private and public organizations.

- ***Craft, promote, guard and amend the vision.*** Because the vision will evolve, it should be crafted, promoted, guarded and amended by a consensus-based council of executive-level leaders and union officials convened by the Governor.

- ***Pursue the public interest.*** The sole purpose for reforming how the State flexes its human resources is to improve services to the public. That purpose should be the lens through which all reforms are viewed, and only those reforms that will advance the public interest should be pursued.

PRINCIPLE FOR REFORM 2: COOPERATIVE PROBLEM-SOLVING

The State should establish and nurture a process for managers and workers to cooperatively identify and implement improvements to productivity, customer service and job performance.

- ***Breed success.*** These efforts cannot succeed unless they are sponsored and supported by top leaders within the executive and legislative branches and within labor. They also require technical assistance, clear guidance, and financial resources so that they can develop the capacity and sustain efforts to make productive change.

- ***Work at the workplace.*** Labor-management committees should be established at the workplace-level within departments to identify obstacles to performance and to craft solutions that are aligned with the principles articulated in the executive vision.

- ***Resolve system-wide issues.*** An all-party steering committee also should be established to address system-wide and other cross-cutting issues.

PRINCIPLE FOR REFORM 3: COORDINATED INFRASTRUCTURE

The State needs a coordinated personnel infrastructure. The infrastructure should enforce the merit principles and civil service laws, help managers and workers cooperate to improve outcomes, and coordinate recruitment, examination, selection and training.

- ***Analyze current functions.*** The State needs to evaluate the functions that are now performed by oversight agencies, and through a consensus-based process determine which of those need to continue at a system-wide level.

- ***Analyze unfilled needs.*** The State should determine which additional functions should be performed at a system-wide level -- either because departments cannot adequately perform those activities or because coordination can yield synergies.

- ***Assess compatibility.*** The process should determine which centralized functions can be grouped and which, if any, must be performed by different agencies. The process also should determine the appropriate management structure for these agencies.

- ***Adapt and align.*** The process should consider ways to adapt California's existing oversight infrastructure, ways to adapt a structure used in another state or by the federal government, or a new system based on these collective experiences.

- ***Informed Deliberations.*** The entire process should be conducted through all-party deliberations informed by independently conducted analysis.

PRINCIPLE FOR REFORM 4: UNIFIED MANAGEMENT

The State needs a management corps comprised of the best available talent, trained to achieve goals, compensated to reward performance and protected by a system of graduated tenure.

- ***Balance interests.*** The parameters of the new corps need to balance the tension between the desire to develop a unified, responsive and well-trained management corps with the need to protect the public from incompetent patronage hiring.

- ***Best available talent.*** The State needs to recruit the best person for the job. As with many organizations, the best candidate may already be employed by the organization. But the selection process should not ordinarily limit the pool of potential talent to the state workforce.

- ***A unified corps.*** Currently there are artificial distinctions between supervisors, managers, Career Executive Assignment and exempt employees that are the product of political compromises rather than an appropriate balancing of public protections and good management practices.

- ***A well-trained corps.*** While effective organizations need well-trained employees in all positions, it is particularly important to train managers to effectively bring change, deal with people and improve services to the public.

PRINCIPLE FOR REFORM 5: PRODUCTIVE BARGAINING

The State should explore interest-based negotiations and other modifications to the collective bargaining process to increase the opportunities to timely reach mutually beneficial agreements.

- ***Structural or process change.*** The stalemate in recent years has prompted many personnel officials, managers and labor representatives to believe that changes to the structure of the bargaining process or in negotiating methods could increase the chances that acceptable agreements could be reached.

- ***The scope of bargaining.*** A growing concern is the type of issues that are brought to the table. Disputes have arisen between control agencies over the jurisdiction of issues such as discipline. Because there are so many bargaining units, unique provisions can greatly

complicate the ability of departments to effectively manage personnel, and makes it hard for union officials to inform and assist members.

- ***Consensus-based reform.*** One way to accomplish this review would be for the Governor to empanel a group to analyze the issue and develop a consensus-based alternative. The panel could include labor, management, legislative and academic experts, who through analysis-based deliberations could agree on structural changes or negotiating practices that would better serve the State.

PRINCIPLE FOR REFORM 6: EFFECTIVE COMPENSATION

The State needs compensation strategies that routinely adjust wages to changes in the marketplace, that link step increases to an employee's growing capabilities, and reward individuals and teams of workers who contribute to improvements in efficiency and productivity.

- ***Consider systematic change.*** The evolution of the wage-setting process has left the State without a common understanding on how salaries and benefits can and should compensate, motivate and reward workers.

- ***Attract competence.*** In particular, the State needs to analytically consider how well compensation is attracting and retaining the caliber of worker needed to increase the productivity of state operations.

PRINCIPLE FOR REFORM 7: FLEXIBLE CLASSIFICATION

The State needs a flexible classification system that accurately reflects job assignment, appropriately compensates workers, and enables managers to better use the State's human resources.

- ***Fair but flexible.*** As the backbone of the civil service system, the classification plan has been relied upon to provide for merit-based selection, job assignment and compensation. But the plan has to be flexible enough to allow for managers to efficiently and effectively fill positions and assign work, and for employees to excel in the workplace.

- ***Evaluate reforms.*** Classification is one aspect of the system where significant experimentation has occurred. But for these efforts to be useful, they must be honestly evaluated, and when successful, widely replicated.

PRINCIPLE FOR REFORM 8: COORDINATED RECRUITING

The State needs a coordinated and effective way to ensure that the most qualified candidates know about the opportunities in state employment and are encouraged to pursue those opportunities.

- ***Coordinate efforts.*** In good economic times and bad, the State needs to lure talent into its workforce. While the needs of individual departments change from year to year, the State's overall recruitment effort should be consistent and coordinated.

- ***Recruit to serve.*** Because of the reliance on promotion to fill higher classifications and because of the nature of public employment, the State's recruitment efforts should manifest the values and social importance of a career in the civil service.

PRINCIPLE FOR REFORM 9: ACCURATE SELECTION

The State's examination and selection process should be adaptable to the needs of individual departments and specific positions, while more effectively allowing for merit-based decisions.

- ***Make good job-person matches.*** While the traditional system has been an effective barrier to patronage, it frequently fails to identify and allow the State to hire the most qualified candidate.

- ***Adaptability.*** Many of the State's departments have unique personnel needs, and the examination and selection process needs to efficiently meet those needs.

- ***Efficiency.*** A fundamental shortcoming of the system is its cost of operation. In addition to the drain on budgets, the costs prompt managers and personnel officers to find ways around the system, encouraging decisions to be made on ease rather than merit.

PRINCIPLE FOR REFORM 10: SUPPORTIVE TRAINING

Policy makers and program managers need to better use training to improve the effectiveness of organizations, to support re-engineering efforts and prepare workers for new assignments.

- ***Coordinate efforts.*** In recent years substantial efforts have been made to coordinate training strategies and opportunities, but the potential benefits for coordination have not yet been realized.

- ***Train for change.*** One skill universally needed in performance-based organizations is the ability to bring about change.

- ***Measure benefits.*** Too often program managers view training as a reward for good workers and a punishment for bad ones. Too often policy makers view training as a luxury, easily cut in lean years. But training has the capacity to increase efficiency, allowing departments to do more with less.

PRINCIPLE FOR REFORM 11: FAIR, EFFICIENT DISCIPLINE

The State needs a graduated disciplinary system that resolves issues as early as possible, at the lowest level possible, and in ways that benefit both the employee and employer.

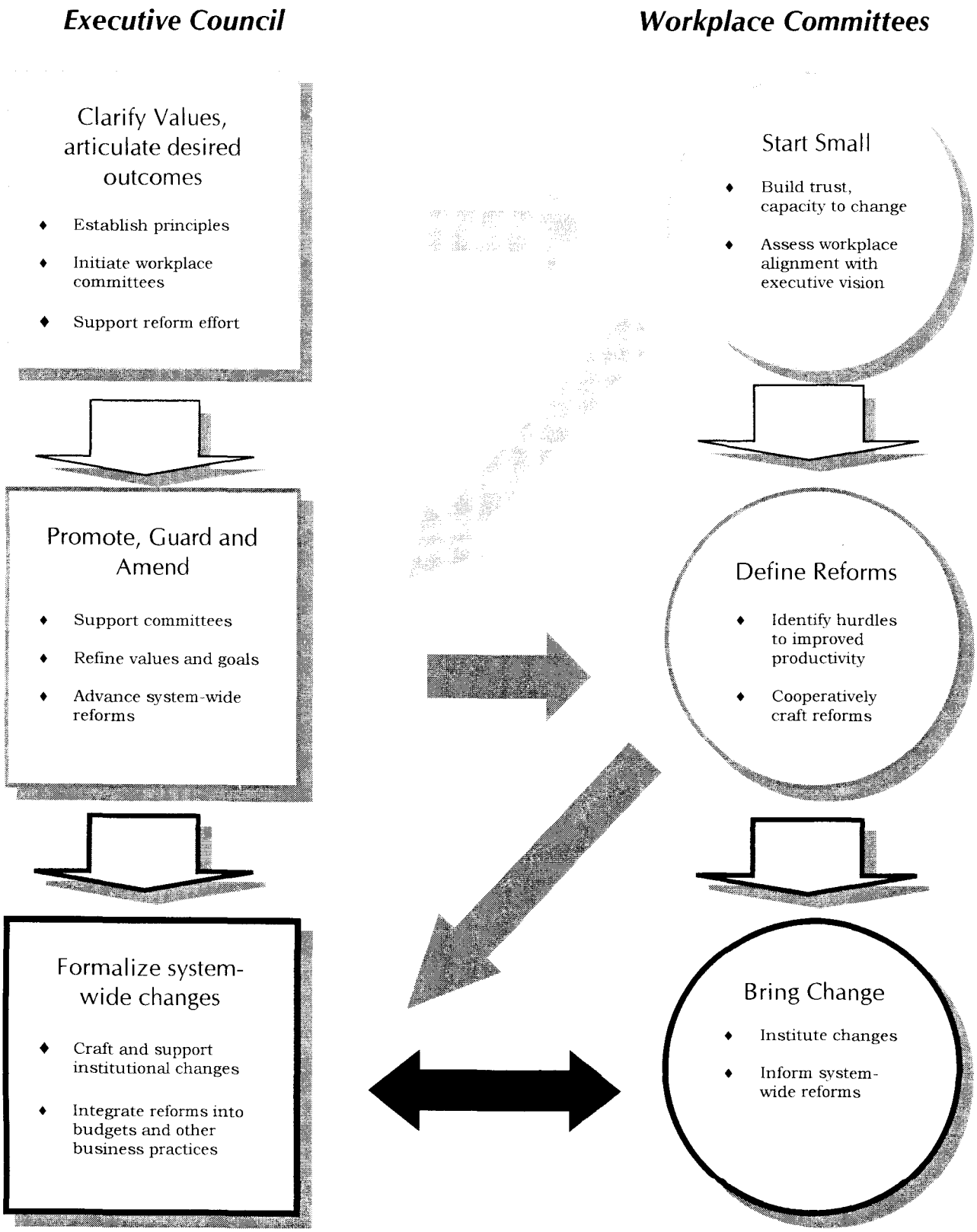
- ***Improve people management.*** A traditional failing of state service is that small personnel problems become complicated discipline problems. Many of these issues can be resolved earlier by improving the skills of supervisors and managers to deal with competence and behavioral issues.

- ***Clarify venues.*** Increasingly, the fractured personnel system is divided over how disciplinary appeals will be resolved and who will resolve them. The appeals process can not be substantially improved until this issue is resolved.

- ***Focus on outcomes.*** The traditional system has developed elaborate procedures to ensure protections. Those protections have gone far beyond the need to insulate workers from political retribution and the procedures prevent the swift and fair resolution of disputes that would benefit employer and employee.

Executive Sponsorship, Workplace Reforms

Drawing from successful efforts throughout the nation, the State should develop a cooperative based process – with executive sponsorship and workplace committees – to improve how the state workforce is used to provide public services. The Executive Council would guide and support the workplace committees. In turn, the committees would provide feedback to the council.



Introduction

Introduction

During this century, the laws governing the State's workforce have gone through tumultuous changes. In more subtle ways, the personnel system is evolving now.

This report advocates that state leaders accelerate and shape that evolution in ways that will significantly improve the quality of public services.

In conducting this review, the Little Hoover Commission sought the advice of others who have found better ways to use public employees to advance the public interest.

Among those sources of wisdom was the U.S. Secretary of Labor's Task Force on Excellence in State and Local Government Through Labor Management Cooperation. It recommended that "where you start depends upon where you begin."

Reformers do not have the luxury of building new systems on bare earth. For better or worse, change must be built upon the State's own history and guided by its own possibilities. That history is summarized in this introduction.

As a Progressive Era Reform

By the end of the 19th Century, the still young California was already facing many of the challenges of older western governments. A particular concern was the staffing and management of the growing number of public agencies. In either perception or reality, the public became increasingly alarmed that the State was being staffed by political cronies of elected and appointed officials. In a word, it was a system of "spoils" -- with the public payroll belonging to political victors.

In 1913, with the winds of the Progressive Era blowing through California, the Legislature created the State's first civil service system as a defense against patronage and favoritism. By the early 1930s, however, the weaknesses in this defense had become clear. Over the years, the independence of the Civil Service Commission was eroded and most of the functions were moved to the Department of Finance.

Under political pressure, both the Commission and the Legislature had exempted numerous departments and positions from the civil service. In 1932, the State employed 23,222 full-time state employees – but fewer than 12,000 of those workers held permanent civil service positions.[1] The easiest way around the system was to appoint an employee to a "temporary" position that seemed to last as long as the worker wanted the job. Many of the appointments were reported to be politically motivated.

Reformers targeted this persistent patronage with a ballot measure that promised to deliver a more formidable civil service system reinforced by the near permanency of the state Constitution. The 1934 ballot statement in favor of the reform decried the consequences of a winner-take-all personnel system:

> *... the inefficiencies of positions filled with employees more interested in politics than public service, the dislocation of professional employees who were motivated by the public good, and the unfairness to more qualified candidates who were not hired.*

The supporters of the ballot measure went on to loudly argue that public workers were a public resource, not a political one. And the way to reclaim that resource was an employment system based on fitness:

> *The purpose of this Constitutional amendment is to promote efficiency and economy in state government. The sole aim of the act is to prohibit appointments and promotion in state service except on the basis of merit, efficiency and fitness ascertained by competitive examination. Appointments of inefficient employees for political reasons are thereby prohibited, thus eliminating the spoils system from state employment.*[2]

Voters supported the measure by a three-to-one margin. As with the ancestral civil service system, the 1934 reform sought to protect the public from patronage by protecting the workers. The protection on the front end

of the system is a merit-based examination and selection process as a barrier to politically based hiring. The protection at the back end is a right of tenure that prevents employees from being fired for political reasons. The State Personnel Board was created to administer the civil service system, while establishing and enforcing merit-based regulations.

Simultaneous to the maturation of civil service protections was the emergence of the scientific management movement, which sought to expand the benefits of mass production into the realm of personnel resources. Among the movement's contributions was the job classification, which defined worker-related skills and assignments. Classifications were intended to allow managers to create production models in which workers were viewed as interchangeable parts of a machine.[3]

Based on Merit

Article VII of the state constitution defines the civil service system in relatively general terms, spending more ink on the composition of the State Personnel Board and – in response to early century abuses – greatly limiting which employees are "exempt" from the civil service.

The clearest expression of the "merit principle" that was expected to protect the public is contained in Section 1 (b):

"In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination."

The stronger civil service rules also fortified the axioms of public administration, as defined by an emerging academic discipline that was producing degreed professionals for careers in government. Principally, there should be a wall between politics and the bureaucracy, that public agencies were best managed by nonpartisan professionals who implemented programs and policies put in place by elected officials.

Even from the beginning, labor representatives were concerned that the examination process was at times inaccurate and unfair. Lawmakers were concerned that tenure provisions would insulate inefficient workers. And elected executives were concerned that career managers would resist their initiatives. But these consequences were seen as the lesser among evils.

Under this merit-based system, the public workforce expanded significantly as the role of government expanded through the middle part of the century. The rules crafted to protect the public interests influenced a civil service culture in which tenure and reliable retirement benefits were a tradeoff for the higher potential pay and greater opportunities offered by the private sector.

The public service also was not imbued with the same kind of day-to-day competition that drove private sector workplaces and inspired long workdays. Of equal importance to the development of the personnel system was the rise of collective bargaining in the public sector.

The Expansion of Worker Rights

In 1961, the Legislature enacted the George Brown Act, which gave state and local public employees the right to form labor organizations and required employers to "meet and confer" with employee groups prior to taking actions on employment issues. Over time, however, the importance of this law was its limitations: it did not provide for an exclusive bargaining group; it did not require the two sides to negotiate in good faith; and, it did not give the employer the authority to enter into a binding agreement.

In 1972, following the first major strike by state workers, the Assembly established an advisory committee, which recommended a comprehensive state law modeled on the National Labor Relations Act, which would extend collective bargaining rights to state workers.

Signs of Success

The Government Performance Project at Syracuse University has seven criteria for evaluating human resource management. The criteria reflect what personnel reformers are striving to achieve:

- Clear and understandable personnel policies and procedures.
- Workforce planning and strategic analysis of needs.
- Timely hiring; program managers have appropriate authority to make hiring decisions.
- Maintenance and development of an appropriate mix of skills among employees.
- Ability to motivate and reward employees consistent with effective performance.
- Ability to discipline and terminate employees appropriately.
- Cooperative and balanced labor management relations.

The rapid evolution of employee organizing rights was solidified in 1977, when California became one of the first states to grant collective bargaining rights to state employees. In enacting the law, the Legislature said that collective bargaining was not intended to interfere with the merit system, and in fact, was intended to complement it.[4]

But the two-tiered personnel paradigm has not functioned as smoothly as policy makers had intended. Collective bargaining did raise the volume of employee voices -- at the negotiating table, during election campaigns and in the legislative process. But the procedures for accomplishing routine personnel tasks have become convoluted. The roles and responsibilities of personnel agencies have become confused.

At a time when public organizations need to adapt to changing demographics and public priorities, new technologies and economies of scale, the State's system for providing and managing human resources has proven to be antiquated and intransigent.

For much of the last decade the parties have become increasingly dissatisfied with the outcomes of the personnel infrastructure – although importantly, the parties do not all agree on a diagnosis of the problems.

Here is an example of that frustration from just one perspective, that of the personnel chief for the Department of General Services:

> *California's civil service remains in a rut, with outdated classifications, hiring lists which are frequently one to four years old, and the inability to make timely hiring decisions with the best person/job match.*[5]

At the margins, some departments are finding ways to make improvements. There is a growing consensus that reform is needed and a tepid willingness on the part of others to explore alternatives.

The State Personnel Board, for example, has often been at the center of controversy. As its functions and resources have been redefined and reassigned, the board has insisted – all the way into court – that it has a statutory duty to enforce the merit principle as traditionally interpreted. But recently, the SPB has more favorably viewed demonstration projects that have explored very untraditional ways of ensuring merit-based decision making. SPB's executive officer told the Commission:

> *There are a variety of existing civil service laws and rules that provide one means of complying with the merit principle. The board, however, believes that a variety of alternative (human resource) methods, procedures and processes can also comply with the constitutional merit principle. There is no one exclusive merit process or procedure that meets all of the varying circumstances that exist in the departments.*[6]

Prior to this report, the Little Hoover Commission had reviewed the personnel system twice since the advent of collective bargaining. In each instance the Commission recommended – among other reforms -- reorganizing the structure of the personnel agencies to eliminate the duplication and conflicts between a merit-based personnel system under the jurisdiction of the State Personnel Board and the contract-based workplace.

The first report was published in 1979 and recommended consolidating personnel functions then divided among the Governor's Office of Employee Relations, the Department of Finance and others into a cabinet-level department. That recommendation was implemented with the creation of the Department of Personnel Administration. But the Commission also recommended that voters be asked to amend the state Constitution to: affirm the principle of a merit-based civil service; eliminate the State Personnel Board so that most functions could be consolidated in the new department; and, create an Employee Equity Board to investigate and adjudicate merit-related complaints. That second recommendation was not implemented.[7]

The second report – *Too Many Agencies, Too Many Rules: Reforming California's Civil Service* – was published in 1995 and similarly recommended eliminating the State Personnel Board and providing another mechanism for resolving complaints concerning possible violations of the merit principle.[8] A summary of the 1995 recommendations is provided in the table.

Too Many Agencies, Too Many Rules

Recommendation	Efforts	Results
Eliminate State Personnel Board.	Proposed Legislation failed; DPA-backed reorganization plan has not cleared Governor's office.	Some efforts have been made to better coordinate DPA and SPB and reduce operational problems at SPB; structural problems remain unresolved.
Eliminate review by Office of Administrative Law (OAL) of internal personnel rules.	DPA has proposed legislatively and at the table to eliminate OAL review of contracts.	Legislation has exempted some SPB rules from OAL review.
Delegate more personnel responsibilities to line departments.	This evolution was already underway and mild efforts continue the trend.	More departments have taken more responsibility for personnel functions.
Expand Career Executive Assignment (CEA) ranks and increase out-of-service recruitment of managers.	DPA has encouraged departments to designate more managers as CEAs. Unions have resisted. Legislature has limited conversions and SPB has increased scrutiny of requests.	The number of CEAs has increased from 950 to 1,400. The State still lacks a unified management structure providing for flexible accountability.
Expand training.	Executive leadership program has been developed and is set to begin in 1999. DPA has created a Management Certificate Program and a task force has completed a plan to guide department training efforts.	Efforts to link training to business needs are being implemented, and as the State's budget has rebounded, more money has been made available for training.
Streamline disciplinary appeals.	DPA and unions have negotiated streamlined procedures for two bargaining units. SPB has initiated a streamlined process for excluded employees and plans to expand that reform to include rank-and-file workers.	While this remains a contentious issue, some progress has been made. SPB and DPA, however, disagree on the proper venue for resolving discipline-related disputes.
Eliminate tenure and automatic merit pay increases.	DPA has proposed pay for performance for step increases and cost of living adjustments.	No change.
Eliminate constitutional presumption that state work must be done by state workforce.	Administration has unsuccessfully sponsored legislation to put this measure before voters.	No change.
Improve labor-management relations.	Some departments report progress in this area, but the relationship between the administration and labor unions has degraded substantially in recent years.	Unit-level progress is overshadowed by leadership-level animosity.

New Winds of Change

The modest changes that have been debated in California are distant echoes of changes that have been comprehensively implemented in other governments. Throughout the world's democracies, agencies are changing the way they work. Some are pressured by fiscal constraints to be more efficient. Some are challenged by increasingly complex social problems, and others by under-performing public programs. Some are prompted by the possibilities of technology.

Nearly all of them have focused on meaningful outcomes – improving the services they provide citizens as customers or consumers of the products of government. Similarly, nearly all of them have found that the smoothest path is one in which workers, managers and the variety of institutional interests have an equal role in crafting reforms.

Throughout this report, examples are provided of the reforms that are underway, in the federal government, in other states and California.

Some of the examples were documented by the federal Task Force on Excellence in State and Local Government Through Labor Management Cooperation, which in 1996 published a report titled *Working Together for Public Service.* After reviewing more than 50 case studies in which cooperative efforts had substantially improved the performance of public agencies, the task force concluded that the outcomes were worth the effort:

> *From the impressive and convincing array of data collected, the Task Force firmly believes that workplace cooperation -- in a model with major parallels to quality and cooperative efforts in the private sector -- can be a powerful tool to achieve improvements in service, cost savings, quality of work life and labor-management relations.*[9]

This report provides a roadmap that the State's top policymakers, executives, and labor representatives could use to focus and accelerate improvements in the State's use of human resources to accomplish the purpose of state programs.

In crafting this report, the Commission heard from experts from across the country. A list of witnesses who appeared at a public hearing in Sacramento is contained in Appendix A. The Commission also impaneled an Advisory Committee comprised of labor representatives, department personnel officials, central personnel officials and others to identify and define specific issues, and to review potential avenues for improvement. Members of the Advisory Committee are listed in Appendix B.

This Introduction is followed by a Background describing the State's personnel system, and eleven principles for guiding its reform, beginning with an Executive Vision. The principles are followed by a Conclusion, Endnotes and Appendices.

Background

Background

For perspective, California is frequently described in isolation. Frequently, California is said to be the seventh largest economy in the world, with an annual gross product of $1 trillion.

The economy is marveled not just for its size, but its diversity – from traditional heavy manufacturing to a rapidly expanding business services industry arising from California's leadership in high technology. At the same time, California is the nation's greatest producer of agricultural products, and employs more workers in food processing than any other state.

In many ways, the State's workforce is a reflection of the large and diverse economy, landscape and population. Just as the state's natural resources have encouraged agricultural production, California's universities nurtured the silicon revolution.

Common to these achievements is a public infrastructure that has engineered highways and water projects, responded to concerns over public welfare and safety, provided for education and recreation, and guarded the environment.

This section describes the state's workforce, the rules used to govern it, and the organizations that have a role in managing it.

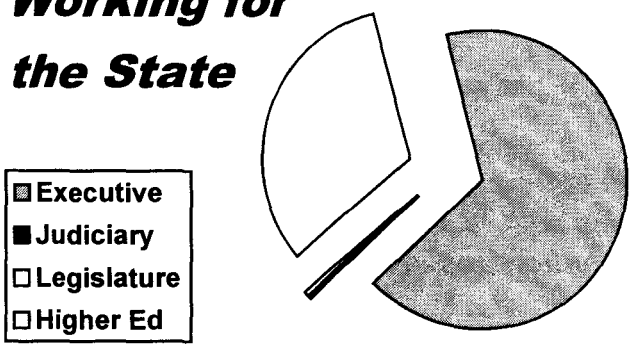
The State Workforce Defined

California employs 276,000 workers. Approximately one in eight Californians is a state worker. This ratio in recent years has gradually declined, as the growth in state employment has not kept pace with the growth in the overall population.

Most of those workers – 180,000 full-time employees – are employed by executive branch agencies, and most of those workers are covered by civil service provisions that are critiqued in this report.

The constitutional amendment creating the current civil service system in 1934 explicitly excluded employees of the Legislature, the judiciary, the University of California and the "California State Colleges," now universities.

Working for the State



The civil service system is largely synonymous with the 70 departments that make up the executive branch. These departments perform the core functions that citizens associate with the State: The departments of Corrections, Health Services, Social Services, Employment Development, Transportation, Motor Vehicles, Fish and Game, Parks and Recreation. One organization alone, the Department of Consumer Affairs, boasts cradle to grave regulation – licensing the doctors who bring Californians into the world to the funeral directors who usher them out.

The vast majority of these workers are hired, managed and "separated" by civil service laws that are administered and enforced by the State Personnel Board. The Constitution and statutes do exclude some high level workers within the executive branch from the civil service system. These exclusions, which are detailed in Principle for Reform 4, are primarily intended to give elected and appointed officials complete discretion in selecting top policy makers and administrators.

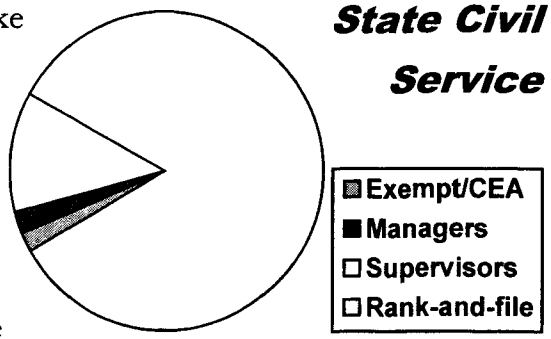
One cornerstone of the civil service is the classification plan. A classification defines the minimum qualifications, the allowable duties, and the compensation for every employee. Some classifications contain thousands of workers. For instance, the classification "correctional officer" has 20,152 "incumbents." Most classifications, however, define the employment of fewer than two dozen workers.

The classification plan is often described as rigid, because it limits management discretion in the workplace and the civil service procedures make the classifications difficult to amend. Ironically, one reason why there are so many classifications is because managers have created new classes to get around the maladies of the selection and compensation rules. The

problems associated with the compensation rules are described in Principle for Reform 6, the classification plan is detailed in Principle for Reform 7, and the selection process is described in Principle for Reform 9.

All classifications fall into one of three categories: managerial, supervisory and rank-and-file. Approximately 170,000 part- and full-time employees are rank-and-file, 23,500 are supervisors, and 4,000 are managers.

In order to get hired into a civil service job, applicants must take an exam for a classification, pass that exam and get on a certified list, and then hope to be interviewed and selected. Once within the civil service system, employees can take examinations to promote into higher classifications or laterally transfer into related classifications and into other departments.



Approximately 2,500 new employees are hired annually into the civil service, according to the State Personnel Board. An additional 10,000 promotions are granted. About 80 percent of the hires are made by the four largest departments -- the departments of Corrections, Transportation, Employment Development and the Highway Patrol.

These fundamental elements of a merit-based civil service system are typical throughout state, local and the federal government. While these rules and procedures have been amazingly uniform for decades, contemporary changes are accelerating the differences in how governments construct personnel systems and manage human resources.

Employee Representation

In addition to the merit-based civil service system – which defines many aspects of employment for nearly all workers – the State also has a collective bargaining process, which determines the remaining terms of employment for most workers.

While civil service rules are nearly ubiquitous in government, over the last 20 years, public workplaces have also become increasingly unionized. The public sector, in fact, has proven more fertile ground for organized labor than the private sector, as government has clearly become the most highly unionized aspect of the U.S. economy.[10]

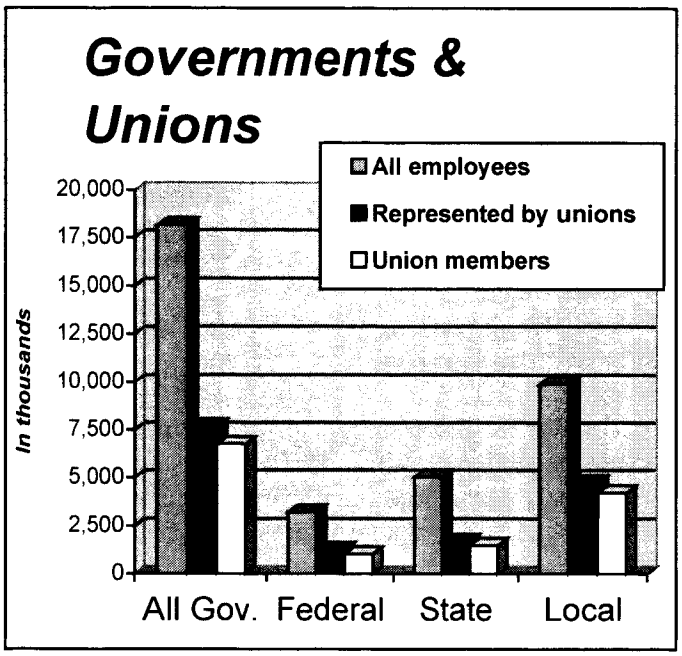
According to the U.S. Bureau of Labor Statistics, there were 16.1 million unionized workers in 1997 in private and nonagricultural industries -- about 9.8 percent of the workforce. By comparison, there were 6.7 million union members working in federal, state and local government -- about 37.2 percent of government employment.[11]

About 32 percent of federal employees are union members; nearly 30 percent of state workers are union members, while nearly 43 percent of

workers employed by local government agencies belong to unions.

In turn, 26 states guarantee state workers the right to collective bargaining without qualification. Two other states -- Kansas and Washington -- bargain over working conditions, but not compensation. The states with collective bargaining account for 60 percent of state workers. Of the 50 states, 28 have granted collective bargaining to local government employees; about 60 percent of local government workers are covered by collective bargaining agreements.[12]

California, in a series of laws enacted mostly in the 1970s, granted collective bargaining rights to state and local workers. The State Employer-Employee Relations law, which also is known as the Ralph C. Dills Act, was passed in 1977, defining collective bargaining for executive branch state employees and creating the Public Employment Relations Board to guard against unfair bargaining practices.



In time, the Legislature created the Department of Personnel Administration to represent "management" at the bargaining table and to administer the contracts.

The Dills Act applies to 157,418 executive branch workers whose union leaders now negotiate for many terms and conditions of employment, including salaries and benefits. Those workers fall into 21 different bargaining units, each with a separate contract, which is called a "Memorandum of Understanding."

The California State Employees Association (CSEA) represents nine of those units – covering 85,000 rank-and-file workers. The largest bargaining unit, which is represented by CSEA, is comprised of more than 34,000 administrative, financial and staff service professionals. The smallest unit covers some 550 educational consultants, librarians and maritime workers. The bargaining units, the union that represents them, the number of employees represented and the expiration date of their contracts is displayed in the table on the opposite page.

Supervisory and management employees are not covered by the collective bargaining agreements. But they are represented by the Association of California State Supervisors in a meet and confer process for addressing workplace issues.

Collective Bargaining By the Numbers

Bargaining Unit	Union	Number of Employees Represented	Expiration date of contract
Administrative, Financial & Staff Services	California State Employees Assn.	34,358	6/30/95
Attorneys and Administrative Law Judges	Association of California State Attorneys	2,900	6/30/95
Education and Library	California State Employees Assn.	2,759	6/30/95
Office and Allied	California State Employees Assn.	33,136	6/30/95
Highway Patrol	California Association of Highway Patrolmen	5,585	6/30/97
Correctional Peace Officers	California Correctional Peace Officers Assn.	23,314	6/30/99
Protective Services & Public Safety	California Union of Safety Employees	6,148	6/30/95
Firefighters	California Department of Forestry Employees Association	3,223	6/30/99
Professional Engineers	Professional Engineers in California Govt.	7,345	6/30/95
Professional Scientific	California Assn. Of Professional Scientists	2,215	6/30/95
Engineering and Scientific Technicians	California State Employees Assn.	3,307	6/30/95
Craft and Maintenance	International Union of Operating Engineers	10,579	6/30/95
Stationary Engineers	International Union of Operating Engineers	798	6/30/95
Printing Trades	California State Employees Assn.	593	6/30/95
Custodial and Services	California State Employees Assn.	4,043	6/30/95
Physicians, Dentists and Podiatrists	Union of American Physicians & Dentists	1,090	6/30/99
Registered Nurses	California State Employees Assn.	3,278	6/30/95
Psychiatric Technicians	California Assn. Of Psychiatric Technicians	5,716	6/30/95
Health and Social Services Professionals	American Federation of State, County and Municipal Employees	3,255	6/30/99
Medical and Social Services	California State Employees Assn.	2,229	6/30/95
Educational Consultants, Library and Maritime	California State Employees Assn.	547	6/30/95
Total		157,418	

❖ *The Governance Infrastructure*

The Constitution creates the State Personnel Board and instructs it to "enforce the civil service statutes and, by majority vote of all of its members, shall prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions." The Constitution also directs the board to appoint an executive officer, who unique among that position in state government, is a member of the civil service. The Constitution instructs the executive officer to "administer the civil service statutes under rules of the board."[13]

The board is comprised of five members who are appointed by the Governor. In an attempt to give the board independence, board members are appointed to 10-year terms -- diminishing, even before term limits, the ability of a governor to control the entire board through the appointment process.

For nearly 50 years, the board functioned as the central personnel office for state departments, as well as the enforcer of the merit principle. It created classifications, recruited applicants, conducted examinations, certified lists of eligible candidates by rank and set salaries. It established rules for disciplining and terminating workers. And it acted as judge and jury whenever workers believed their rights under the civil service system had been compromised.

Collective bargaining undermined the board's policy-making and administration monopoly. Most immediately, the board lost its role in setting salaries. Over time its role in administering the classification plan shifted over to a new agency -- the Department of Personnel Administration (DPA), which was fashioned out of the Office of Employee Relations to negotiate and implement elements of the labor contracts.

More gradually, many of the more routine personnel functions, such as the examination process, were "decentralized" to individual departments, following a trend pioneered in the federal government and adopted by other large, diverse bureaucracies.

Simultaneously, the role of the Department of Personnel Administration grew, from representing the Governor at the bargaining table to functioning like the central personnel office of a large corporation. It assisted departments as they went about the day-to-day tasks of human resource management, while making sure the departments complied with the personnel policies of the administration.

As the SPB's administrative role has diminished, the board's regulatory and appeal functions have come to characterize the organization.

From the perspective of the departments, both SPB and DPA are control agencies – organizations that make and enforce rules, and approve or veto department decisions.

Between the State Personnel Board and the Department of Personnel Administration, a number of conflicts have developed over the years. That

relationship is detailed in Principle for Reform 3.

While the State Personnel Board and the Department of Personnel Administration are the main features in this infrastructure, a number of other agencies play smaller roles. Among them:

- ***Public Employment Relations Board.*** The board enforces the State Employer-Employee Relations Act by investigating complaints of unfair labor practices. The board also can make determinations regarding the scope of bargaining.

- ***Department of Finance.*** As the Governor's budget office, the department reviews requests by departments to increase their budgets and to reallocate authorized positions. The department also has a large say in fiscal aspects of the administration's personnel decisions and in the budget negotiations, in which the Governor and the Legislature can cut, add or move resources among programs and departments.

- ***State Controller.*** The Controller is the State's paymaster. While this is a largely ministerial function, it is one more central office that departments must coordinate with. Individual Controllers also have become involved in personnel issues.

- ***Board of Control.*** The Board investigates claims that workers have been assigned work outside of their classification and reviews appeals concerning employee reimbursement claims.

- ***Public Employees' Retirement System.*** PERS administers retirement and health benefit programs for state and local employees.

Summary

The State's workforce is large and diverse, and the organizations and procedures constructed to manage are complex. Moreover, the personnel system reflects an evolution of public values, including merit-based employment decisions and workers' rights to organize. While this evolution is understandable from a historical perspective, it does not provide the State with an effective and efficient means of developing and maintaining a competent workforce. Moreover, in the end it is not the best way to institutionalize the public values that inspired it.

PRINCIPLE FOR REFORM 1:

Executive Vision

Before specific reforms can be crafted, and for those reforms to be effective, the State's top leaders need a shared understanding of how the overall personnel system should help individual departments fulfill their particular missions.

- ***Clarify values and goals.*** *The vision should clarify commonly held values and define desired outcomes. These values and desired outcomes should guide the reform process.*

- ***Build a foundation of trust.*** *The initial vision, by necessity, may have to be vague -- allowing the specifics to be added as trust is developed, a mutually acceptable understanding of the problems are defined and detailed reforms can be derived.*

- ***Balance protections and flexibility.*** *The vision must address the tension that exists between the rule-based protections that are intended to guard against patronage and fiscal abuse and the flexibility required for performance by private and public organizations.*

- ***Craft, promote, guard and amend the vision.*** *Because the vision will evolve, it should be crafted, promoted, guarded and amended by a consensus-based council of executive-level leaders and union officials convened by the Governor.*

- ***Pursue the public interest.*** *The sole purpose for reforming how the State flexes its human resources is to improve services to the public. That purpose should be the lens through which all reforms are viewed, and only those reforms that will advance the public interest should be pursued.*

❖ Clarifying Values and Goals

California's personnel system has evolved and devolved in ways that has engendered fundamental disagreements over the value of public employees, how they can best serve the public interests, and the roles of the different branches of government and various personnel agencies. These fundamental divisions go far deeper than the necessary and protective tensions designed into democratic governments. The divisions have contributed to stalemates at the bargaining table, spawned battles in the Legislature, and frustrated departments trying to redirect programs or reallocate resources based on the public imperative of the day.

Waiting for Olive Branches

The California Association of Highway Patrolmen, a union that enjoys one of the better labor-management relationships in state government, described the state of affairs this way:

"Until state management recognizes that they must extend the first olive branch, civil service reforms will never be accepted as anything more than a political agenda with little or no basis in reality.

"I have been involved with public sector unions for 17 years. My experiences have included representation of city, county and other state employee organizations. I can state unequivocally that I have never seen union/management relationships and employee morale any worse than it is presently in state government.

"This is an extremely unfortunate fact, but it is a fact. Moreover, until this relationship is dramatically improved, civil service reforms will only serve to further demoralize the state work force."

While there are many contributing factors to this problem, a fundamental cause is the evolution of the personnel-related infrastructure. The evolution has resulted in numerous venues where personnel issues are decided. It has divided responsibilities and authority. And as a result, it is difficult for the State to develop and implement a common vision for how the workforce should provide services to Californians.

When California had a centralized civil service system, the State Personnel Board was the primary venue for setting day-to-day personnel policies, for performing most personnel functions, and for enforcing civil service laws. In that context, the Governor and the Legislature set over-arching personnel policies.

With the addition of collective bargaining, definition of terms and conditions of employment moved from the quasi-judicial personnel board to the negotiating table, with the workers represented by 21 different bargaining units, and the executive branch represented by the Department of Personnel Administration. This change diluted the authority of the SPB, increased the role of the unions and the Governor, added the Public Employment Relations Board as a new venue for setting policies and settling disputes, and through organized labor, made the Legislature more active in establishing the State's personnel rules.

At best, a creative tension has defined the relationship between the SPB and the Department of Personnel Administration, which now shares some of the personnel functions that were once consolidated at the board. But of equal

importance, over the years, individual departments have taken on many of the day-to-day duties of examining and selecting candidates, training, promoting and disciplining workers. Different departments have taken on those responsibilities with different degrees of competence. Importantly, however, many of those agencies have developed their own views on how personnel can best be used to achieve organizational goals.

While the structure has changed radically over the years, the new elements have never been fully integrated into the existing system. Resources have not always followed responsibilities and conflicts have not always been resolved. As discussed later in this report, the State needs to rethink this structure. But before organizational architects can begin their work, the leaders of the existing system must articulate principles that should ideally guide the system's operation.

The experience of recent years illustrates just how far the interests have diverged. Reforms proposed by DPA were summarily denied by labor. Similarly, most of the reforms that have been piloted under the SPB-monitored demonstration law have not included rank-and-file workers, and one demonstration project involving supervisors and managers ended up in court. Labor and management could not even get together on a task force exploring how to integrate training and strategic plans.

Talks bogged down between the Controller's office and DPA over how to automate the State's compensation system. And the SPB is threatening to sue the DPA over a discipline provision it has negotiated with firefighters.

Vision Failure

The fractured system has complicated efforts to develop and maintain an agreed upon vision for the State's workforce.

The Department of Personnel Administration laid out its "vision" in a series of bills introduced during the 1995-96 legislative session. Most of the bills were based on the Little Hoover Commission's 1995 civil service report.

The legislation failed, and the department then tried to pursue those reforms at the bargaining table, where it met with similar resistance.

The stalemate is partly the result of divergent opinions. But efforts to define a vision have been frustrated by the multiple venues for establishing policies and as a result the fractured responsibility for the system's performance.

Even if the animosity could be extracted, the State lacks – in law, regulation, executive order or even unofficial mission statement – a cohesive, comprehensive and unified description of what the State expects of its personnel system. There is nothing to guide well-intended line managers, department personnel officials, control agents, state and union negotiators, or interested legislators. Without a vision or an intended destination, there is no way of knowing which bill, which contract provision, which new classification, which hiring decision will help or hinder the State in developing the workforce it needs to more efficiently provide Californians with better public services.

At this time, it would be unreasonable for all of the parties to agree to the fine print of a detailed reform package. But it is essential that all of these parties agree that the State must rethink how the workforce is managed,

agree to the fundamental principles that should guide that reform effort and agree in general terms how a reformed system would function.

This alliance must include all of the parties whose participation is essential to the success of these reforms and who individually could stymie the reform effort. The alliance must include the Governor, union officials, the legislative leadership, the State Personnel Board, the Department of Personnel Administration, and the leaders of several key departments.

The initial goal should be to unify the various interests to a common goal. The alignment is necessary because over the years change has occurred incrementally, without any comprehensive review of how new developments functioned in old systems: Collective bargaining has never been fully integrated with the merit system. Personnel functions have been delegated to departments without any formal, system-wide realignment of resources and responsibilities. Demonstration projects are significantly changing how thousands of employees -- most of them supervisors and managers -- are selected, compensated and disciplined.

By necessity, the accord must begin with a commitment to seek cooperative solutions. The most useful way to express that commitment would be to articulate a commonly held vision for what the leadership believes the State workforce and the personnel system should look like.

This vision at first must be necessarily vague, because the specifics will have to be defined in time -- by both the leadership and the line managers and rank and file workers. The specifics will come.

❖ *Build a Foundation of Trust*

A common element of successful reform efforts is that the details of change have been built upon a foundation of trust. And, and in those instances, as in California, trust between labor and management was historically in short supply.

The California Association of Highway Patrolmen testified on the role that mutual respect has played in improving labor-management relationships at the Highway Patrol and the potential for those same benefits to be realized in other departments:

> *The California Highway Patrol (CHP) and the CAHP (California Association of Highway Patrolmen) are recognized for having developed a working partnership. Both the union and the management recognize the distinct advantage of maintaining a high level of employee moral. The relationship between the CHP and the CAHP is based on integrity, trust and mutual respect. The result is that there exists no subversive agenda but rather solution oriented thinking and problem solving approaches to some very sensitive and controversial situations or concerns.*
>
> *There is always room for improvement in state government, but if you want the unions to take these reforms seriously, then let the reforms*

start at the top. Build trust and cooperative relationships. Eliminate the rigidity by which the proposed reforms have been forced on the unions and allow flexibility and creativeness that recognizes the uniqueness within state government. And finally, be objective and solution oriented, not ideologically confined.

When the CHP has a problem which affects their employees, (our members) they include the Association early in the decision-making process. The CAHP's input or concerns are given serious consideration and nearly always a mutual resolution is agreed upon and implemented. The commitment to this "partnership" comes from the top of both organizations and it works! Trust and mutual respect are the very foundation of the successful, effective and cooperative relationship that developed between the CHP and the CAHP.[14]

And the only instance where most of the administration's civil service reforms have been accepted by labor has been the California Highway Patrol, where clear organizational vision and a long-standing trust between officers and commanders allowed change to occur.

Distrust is not unique to California government. The Secretary of Labor's Task Force on Excellence in State and Local Government through Labor-Management Cooperation found that a common barrier to workplace partnerships was mistrust – "often arising from a history of difficult workplace relationships, recent campaigns, impasses or other conflicts of traditional labor-management relationships.[15]

Trust cannot be built unilaterally, and it can best be engendered from the highest level of the organizations involved. Moreover, it takes time for trust to emerge. The experience in the Highway Patrol, as in other public agencies, is that the best reforms emerge after trust is developed. For that reason, the details of the vision articulated by the executive council will likely have to emerge as the common ground grows.

How to Begin

The Secretary of Labor's Task Force, drawing from the experiences of workplace reforms throughout the nation, crafted a list of first steps. Among them:

- ❑ **Start Small.** At the workplace level, successful partnerships focused their first efforts on a single project that helped to ease conflicts.
- ❑ **Leadership Commitment.** The commitment came from both sides.
- ❑ **Break with Past Habits.** To get past the old way of doing business, workers were trained in conflict resolution and new business practices. Neutral assistance was available to resolve disputes.
- ❑ **Flexibility and Cohesion on both sides.** While all parties have to compromise, the various parties need to be united to prevent the erosion of support.
- ❑ **Changed roles in collective bargaining.** The cooperative model requires shared decision-making and responsibility for problem solving.

❖ Balance Protection and Flexibility

The civil service was created to protect the public from the inefficiencies and abuses of political patronage. Most of the issues that concern managers are the result of those protections, such as the examination and selection procedures for new workers and the discipline and termination procedures for tenured workers. One challenge for reformers will be to balance the need to protect the public from abuse while providing organizations with the flexibility to efficiently and effectively provide the public with services.

This fundamental dichotomy is not unique to California, as characterized here by an academic evaluation of civil service reform efforts:

> *Any civil service system that simultaneously seeks to protect employees and to manage programs has an inherent contradiction. The search for protection produces rules and generates inflexibility; the search for performance demands results and requires flexibility.*
>
> *Reformers have tried to solve this problem by tinkering constantly over the last century with the system's rules. The constant, incremental changes, however, have gradually pushed the rules from the means to an end -- better government -- to ends in themselves. The rules have frustrated the very workers the system was designed to protect: The performance problems that have resulted have left them vulnerable to political attack.*[16]

❖ Craft, Promote, Guard and Amend the Vision

The problem with many reform efforts is the best of intentions do not stand up to the attacks of reality. These reforms will take years to define, to implement, to evaluate and to refine. While the solutions cannot be dictated from the top, the solutions must be supported from the top. More importantly, the lesson from other reform efforts is that support has to be intense and persistent.

As part of the National Performance Review, the Clinton Administration created the National Partnership Council, which was designed to create an ownership and persistent high level support for the reinvention effort. The council was comprised of labor officials, cabinet and department level officials. In fact, the council was criticized for initially not having enough management representation, demonstrating the effort to involve labor.

The council conducts open meetings, adopts strategic plans, monitors labor-management partnerships in government and issues annual reports to the president on the status of the partnerships. It has developed a facilitation program that trains managers and workers on ways to deal with the challenges faced in developing effective relationships, and it bestows awards on partnerships that exemplify the potential of the program.

But even if the council is balanced, committed and involved, the council cannot be a substitute for strong and persistent support from the chief executive and high-level appointees. Critiques of the National Performance Review (NPR) found that White House support never wavered, but support was inconsistent in the leadership ranks of individual departments – squandering opportunities to improve workplace-level operations throughout the federal bureaucracy. One NPR critic said:

> *Executive level support is important, and it cannot be accomplished in sound bites. It must be persistent and pervasive, that is one of the lessons that the NPR has for California. One of the primary obstacles to change that reinvention lab managers identified in 1996 was lack of support from political appointees and others in the hierarchy above the labs or the central office personnel.*[17]

The Task Force on Excellence in Government found that "leadership commitment" – realized in different ways depending on the organization -- was a common element in the initial stages of successful reforms:

> *Success requires leadership commitment on both sides, to start and overcome mistrust, to keep people focused in the early going, overcome early barriers and resistance and put the effort and the relationship on track after inevitable mistakes.*[18]

❖ Pursue the Public Interest

Finally, there is one other element that is common to nearly all of the comprehensive and systemwide operational reforms that have realized any measurable success: The purpose and the focus of the reforms were not the civil service system, but the service that was being delivered to the consumers of government services. At the end of the day, each of the reforms attempted or accomplished significant personnel-related changes. But the prospect of improving street-level services and rebuilding public confidence in government is what inspired support for the changes from elected officials, public employees and the public.

There appears to seldom be room on the crowded public agenda for such an internal issue as personnel procedures. But correctly there is an audience for improving the public goods provided by government. One academic observer described it this way:

> *The civil service is a means to an end -- better performance in government -- rather than an end in itself. The central problem with today's civil service system is that too often an obsession with compliance has crowded out the purpose for which the civil service system was created. The foundation for real reform must be performance.*[19]

The National Performance Review is a good example of how reforms moved from internal issues that only public employees and policy wonks were interested in to issues that citizens could understand and find value in:

> *The initial wave or reinvention in the federal government measured success by reductions in the payroll or pages of regulations. But those are surrogates for an improved process and the second order goals are the kinds that the reinvented workplace can first envision and then deliver. For example, by the year 2000 federal employees at the National Weather Service plan to give citizens twice as much warning of severe weather to give people more time to prepare. Within the next decade, NASA, the Department of Defense and the Federal Aviation Administration "will reduce" flight delays and the aircraft accident rate by 80 percent. Those are outcomes that taxpayers will value.*[20]

The reinvention principles were: "putting customers first, cutting red tape, empowering employees to get results, cutting back to basics." The action plan was to: "create a clear sense of mission, steer more, row less, delegate authority and responsibility, help communities solve their own problems, place regulations with incentives, develop budgets based on outcomes, inject competition into everything we do, search for market, not administrative solutions; measure our successes by customer satisfaction."

Ohio's Quality Through Partnership Program

One of the nation's best examples of comprehensive reform ushered by a coalition of executives is Ohio's 5-year-old Quality Through Partnership program.

After being elected governor, George V. Voinovhich started a Total Quality Management program to reinvigorate the bureaucracy. Several months into the program, the governor had a chance encounter with Paul Goldberg, executive director of the 38,500-member Ohio Civil Serve Employees Association, AFSCME Local 11. The governor asked how TQM was progressing and the union official said it wasn't, in part because labor was not part of the team.

The governor solved that problem by refashioning the project's sponsorship as a joint labor-management effort. Representatives from both sides visited private sector operations that had successfully implemented labor-management committees, and that infrastructure was recreated in Ohio.

The goal of the Ohio effort was not civil service reform, but improved customer service. Invariably, however, rethinking how an organization performs its mission requires rethinking how people perform their assignments.

Ohio's program has three tiers: a 10-person quality steering committee with equal management-labor representatives and a small staff that operates the Office of Quality. The steering committee monitors, guides and advises, and also sets up a strategic plan to guide the system-wide efforts. Each department also has a steering committee to do the heavy lifting. And the program has Quality User's Advisory Committee, or the Ohio Quality Network, which involves labor and management representatives from participating agencies. The network is a clearinghouse for good ideas and lessons learned.

Summary

California's efforts to rethink how the state's workforce can better serve the public must begin at the top – with a commitment by an executive council of government leaders and labor representatives. Because of how the State's personnel system has evolved and because of the stalemate over civil service reforms, that commitment should be expressed as a set of guiding principles and desired outcomes that can be used by departments and functional units to develop cooperative relationships and real world solutions on the workplace level. Throughout this effort, the goal should be to provide the public with efficient and effective government.

PRINCIPLE FOR REFORM 2:

Cooperative Problem-solving

The State should establish and nurture a process for managers and workers to cooperatively identify and implement improvements to productivity, customer service and job performance.

- ***Work at the workplace.*** *Labor-management committees should be established at the workplace-level within departments to identify obstacles to performance and to craft solutions that are aligned with the principles articulated in the executive vision.*

- ***Breed success.*** *These efforts cannot succeed unless they are sponsored and supported by top leaders within the executive and legislative branches and within labor. They also require technical assistance, clear guidance, and financial resources so that they can develop the capacity and sustain efforts to make productive change.*

- ***Resolve system-wide issues.*** *An all-party steering committee also should be established to address system-wide and other crosscutting issues.*

❖ Work at the Workplace

In recent years, the battles over civil service reforms in California have been fought at the bargaining table, before the State Personnel Board, in the Legislature, in the judiciary, and in the court of public opinion. The evidence is overwhelming, however, that real progress cannot be made anywhere unless it is based on the problems of the workplace as defined by the rank-and-file workers, supervisors and managers.

The Top Needs the Bottom

Empowering employees means allowing them to help define problems and solutions. That is what the vice president was told by the chief executive officers from some of the nation's largest corporations when he asked them how the federal government should reinvent itself.

"For a long time, many government workers felt as though they were in a Dilbert cartoon. They were imprisoned in a system where they had little power and no one listened to their ideas. Decisions were made so many levels above them that it seemed futile trying to change things. So it comes as no surprise that the CEOs zeroed in on this problem. They told Vice President Gore: Your employees are your best asset. Start using them.

"No organization, public or private, can change unless the people doing the jobs are involved. Without this, directives from above just fill up the office wastebaskets."

Such was the case in the National Performance Review: The president in 1993 directed executive agencies to establish labor-management partnerships. The president said they should "involve employees and their union representatives as full partners with management representatives to identify problems and craft solutions to better serve the agency's customers and mission." The order said there would be systematic training of employees in consensual methods of dispute resolution, including interest-based bargaining, that partnerships should negotiate improvements in how employees were assigned to work and how they did their jobs, and then to evaluate that work.[21]

In the National Performance Review (NPR), this bottom up approach was characterized as "laboratories for reform."

> *In its first report, the NPR urged each federal department and agency to create laboratories for reform -- small scale change efforts tailored specifically to the mission and need of each organization. Approximately 200 such laboratories were created in the first Clinton term. They were not closely monitored. Indeed, some of the labs chose to operate below the sight line of their parent department to provide cover for the changes they were pursuing. While the experiences and lessons of the laboratories are still emerging, it is clear that some of the greatest success of reinvention have been at the laboratory level.*[22]

The labs generated innovations in three areas: Flexibility in the civil service area of classification and compensation, an emphasis on teamwork and rewards and incentives for teams; and a partnership between organizations and their customers and among two or more organizations.[23]

California's demonstration law, among the few fertile grounds for reform, requires that departments consult with labor unions, but does not require that reforms be defined and implemented by labor-management committees. In most cases unions have been leery of the reforms as efforts to get around civil service protections that labor officials believe are necessary. The consultation provision is one likely reason why the most ambitious changes being tried under the demonstration project law are limited to "excluded" employees – managers, supervisors and confidential workers who are not under the collective bargaining umbrella.

The State Personnel Board, which is charged with reviewing the demonstration projects, said in testimony to the Commission that a cooperative employee-management approach to developing new personnel systems is essential:

> *To develop and implement the tailored HR systems envisioned by the board and to make permanent those demonstration efforts that prove beneficial, will require the extensive involvement, full participation and support of employees and their unions and associations. None of the changes envisioned by the board will be possible without the support and cooperation of employees and the employee organizations.*[24]

❖ Breed Success

One of the essential purposes for an executive level council is to support the reform efforts that must be conducted at the workplace level. One universal lesson from other states and local governments where civil service reforms have occurred is that those reforms grew out of mutual efforts by managers and labor representatives to identify and lower barriers to improved performance.

The Task Force on Excellence in State and Local Government Through Labor Management Cooperation documented numerous examples where, once committed to a cooperative effort, labor and management identified and removed barriers to better productivity, customer service and job performance. Many of the barriers identified through this process were personnel-related.

In Ohio, 28 state agencies have established quality steering committees, which support the efforts of smaller labor-management committees that are dealing with the nuts and bolts of reforms. Part of the

Doing Good in LA

The national task force on excellence in government found one successful cooperative effort in Southern California:

"Spurred by a severe city-wide budget crunch, the Los Angeles Bureau of Sanitation formed a joint labor-management committee with SEIU Local 47 in 1994 with the twin goals of trimming costs and improving service delivery. Thanks to the work of this committee, the Bureau increased truck availability from 75 percent of the time to 94 percent of the time – largely by improving cooperation between drivers and mechanics and their respective departments. The increased truck availability reduced overtime by 54 percent, with more savings promised in the future."

support has been "basic training" for more than 20,000 employees on the general principles and methods of quality improvement. On average, each worker received more than three days of formal training to provide them with the skills to contribute to a cooperative reform effort.

In addition, hundreds of other employees have been trained as facilitators, and are assigned to help new work teams get established or get past difficult hurdles.

The evidence gathered from the federal NPR was that employees involved in the reinvention project found that effort to be valuable. Surveys of federal employees by the U.S. Merit Systems Protection Board show that workers in departments that had seriously invested in reinvention were more likely to believe that the efficiency of their workplace was improving. They were more likely to report that they had flexibility in how they did their jobs, were more likely to believe their work was valued and were more likely to believe their employers were making good use of their ability.

> *Employees who said their organizations had stressed NPR goals were also much more likely to be satisfied with their jobs. Almost four out of five employees (79 percent) in organizations that had made NPR goals a priority said they were satisfied with their jobs. Only about half (52 percent) of the people who said they worked in organizations that had not emphasized NPR goals said they were happy with their jobs.*[25]

❖ *Resolve System-wide Issues*

While many of the State's personnel problems are manifested at the workplace level, they are caused or aggravated by problems resulting from organizational aspects of the State's personnel system or other factors that drag down the entire system.

For instance, the State has never fully resolved the organizational conflicts between the old centralized merit-based personnel system, with the collective bargaining process, with the decentralization of personnel functions to individual departments. Similarly, the workings of the bargaining process are often one step removed from the operational units within departments that must function under the provisions.

These problems are described in greater detail in Principle for Reform 3. But what will be important to the committees is to know that the larger issues are being resolved, and to be able to contribute to their resolution. But to really solve the structural and other system-wide issues, reformers will have to understand how those problems are manifested in the workplace. The committees will be a good source of information and advice.

The process described here is similar to one used in Ohio, where union and government leaders sought to bring about changes in individual workplaces and throughout the system. Ohio's five-step reform process is summarized in the box.

Ohio's Five-Step Process

The Ohio Quality Partnership program had five steps to realize the benefits of its top-down and bottom-up efforts to reform state operations:

- ❑ **Build awareness and commitment.** This step required leadership, marketing and training.
- ❑ **Develop the plan and structure.** This required vision and values, partnerships, coordinators and networks, steering committees, agency assessments and strategic planning
- ❑ **Ready Organizations for Culture Changes.** Prepare managers for quality leadership. Prepare all employees to work as team members. Prepare unions and management to work in partnership. Pilot learning projects. Celebrate efforts.
- ❑ **Employer Problem Solving at All Levels.** Check Progress. Leverage the results of early successes. Increase the number of improvement teams as resources will support. Push all decision making down to the lowest possible level. Develop employees to implement their own ideas. Form interagency teams to align the entire organization's progress.
- ❑ **Integrate Quality in all Systems as the State's Business Philosophy.** Measure success and progress based on customer requirements. Renovate systems to reward team efforts and encourage leadership. Move from hierarchies to networks. Formulate missions for all agencies that are customer-focused. Develop customer/supplier relationships with all branches of government and the private sector. Team problem solving is normal.

Summary

Successful reform efforts have relied on workplace committees to define problems and solutions to improve job performance. The committees need support and training, they need to start small and then repeat initial successes, and they need to be used to inform efforts to make system-wide improvements.

PRINCIPLE FOR REFORM 3:

Coordinated Infrastructure

The State needs a coordinated personnel infrastructure. The infrastructure should enforce the merit principles and civil service laws, help managers and workers cooperate to improve outcomes, and coordinate recruitment, examination, selection and training.

- ***Analyze current functions.*** *The State needs to evaluate the functions that are now performed by oversight agencies, and through a consensus-based process determine which of those need to continue at a system-wide level.*

- ***Analyze unfilled needs.*** *The State should determine which additional functions should be performed at a system-wide level -- either because departments cannot adequately perform those activities or because those activities are not being done at all.*

- ***Assess compatibility.*** *The process should determine which centralized functions can be grouped and which, if any, must be performed by different agencies. The process also should determine the appropriate management structure for these agencies.*

- ***Adapt and align.*** *The process should consider ways to adapt California's existing oversight, ways to adapt a structure used in another state or the federal government, or a new system based on these collective experiences.*

- ***Informed Deliberations.*** *The entire process should be conducted through all-party deliberations informed by independently conducted analysis.*

❖ *Analyze Current Functions*

As the State's personnel system has evolved, the central organizational structure has not been adequately realigned to meet the contemporary needs of state government.

In 1979 and again in 1995, The Little Hoover Commission recommended ways to reorganize the necessary functions into a more streamlined and coordinated support structure for setting policy and administering those policies. In both instances, the Commission did not see a need for two large state control and oversight agencies in an era when collective bargaining was the venue for defining compensation, the classification plan and potentially discipline-related procedures.

While that recommendation was controversial, the ensuing debate did not squarely address fundamental problems concerning the centralized structure or recognize the potential for a more coordinated system to enhance rather than hinder the efforts of workers, managers and department officials to increase job and personnel performance.

Less dramatically, the Constitution Revision Commission noted the overlap between DPA and SPB in the areas of classifying, selection and disciplining employees. The Constitution Revision Commission recommended the probationary and classification functions of the State Personnel Board be transferred to the Department of Personnel Administration.[26]

The problems, as described earlier, are largely the result of dramatic changes in the personnel structure that were never followed up with detailed realignment. The friction is most often recognized between the Department of Personnel Administration and the State Personnel Board. They both have sometimes cautiously and sometimes caustically asserted authority over recruiting, selecting, classifying and disciplining employees.

Too Many Players

From the department perspective, in this case the Department of General Services, the personnel system is too fractured. The department's personnel officer named the other agencies she must deal with on personnel issues:

"There are too many players in the human resources arena," the department's chief of human resources told the Commission:

"Public Employees Retirement System for health benefits and retirement.

"DPA for dental, vision, insurance, investments, classifications, layoff, hiring freezes, pay, Absent Without Leave appeals, collective bargaining issues.

"State Controller's Office for payroll.

"SPB for classifications, exams, disciplinary and merit issue appeals.
State Compensation Insurance Fund for workers' compensation.

"Worker Compensation Appeals Board for worker's compensation appeals.

"CalOSHA for worker safety.

"Public Employment Relations Board for arbitration and unfair labor practices.

"Department of Finance for position control, hiring freezes, budget change proposals.

Employment Development Department for Non-industrial Disability Insurance, unemployment insurance claims and appeals."

The State Personnel Board, for instance, has fought with DPA over bargained discipline and other procedures that the board believes are defined by merit laws and regulations that are within the board's jurisdiction.

DPA has fought with SPB over its interpretation of statutes creating the Career Executive Assignment and other class-related rules that the management agency believes are essential to create a flexible and responsive workplace.

At the very best the roles of the two agencies confuse job applicants and employees, managers and department officials. DPA publishes a table that categorizes personnel issues and delineates which issues belong to which agency. It also notes the issues in which agencies have asserted a role -- including classification establishment and modification. DPA creates re-employment lists, but SPB must certify the list. Both agencies also share responsibility for the State Restriction of Appointment (SROA) list, the list of potential layoff candidates who all state departments must consider before hiring a new worker.

The director of the Department of Personnel Administration conceded that the personnel system is hindered by fundamental structural problems:

> *The relationship between the two processes (civil service and collective bargaining) is certainly one of the key questions we face in attempting to improve the State's human resources system. While collective bargaining has been in the state domain for more than 15 years, it is not yet fully harmonized with the State's civil service system. This has led to disagreements over the scope of bargaining, the thrust and substance of civil service reform proposals, and has sometimes caused operational conflicts between DPA and SPB. This hinders both of us in our service to state agencies. We must resolve this if we are to have a better human resources system.*[27]

The problem is aggravated by the fact that both agencies see themselves as having some control responsibilities – to enforce merit laws, compensation policies and classification rules. At the same time, they have tried to be service providers to line-departments -- by conducting examinations, or system-wide recruiting efforts, or providing training.

And finally, the role of the personnel agencies are confused because some departments have taken over many of the day-to-day functions that were once centralized in either the SPB or DPA. But not all agencies have taken on these duties, and not all of those who have taken on the duties have the resources or the skills to do the job. Responding to the unmet need, SPB has started to resurrect some functions that were once centralized, such as creating and administering exams, as a service that departments can purchase.

And while the focus of these issues is often the SPB and the DPA, a number of other agencies have smaller but significant roles in the personnel system.

Most notable is the Department of Finance, which as the executive budget office has significant effect on a department's ability to develop a performance-oriented workforce.

❖ *Analyze Unfulfilled Needs*

While the state has a plethora of agencies with some personnel function, those agencies are not necessarily providing the services needed for departments to function efficiently or for policy makers to monitor the system and make changes.

Some functions, such as recruiting employees into public service, are not assigned to any of the oversight agencies, nor are departmental efforts coordinated or supported in any meaningful way.

Similarly, neither the central control agencies nor the individual departments collect the data and conduct the evaluations that would tell policy makers and program managers how well the personnel system is functioning and how it can be improved. For instance, one of the primary reasons why many personnel functions were delegated to departments was to reduce costs. But the State does not track how much it spends administering the personnel system, even on a departmental basis. While personnel offices have budgets, the costs of personnel administration are infused through department budgets.

So policy makers have no way of determining if the decentralized system is costing more or less than the centralized system did. Moreover, there is no way of assessing inefficiencies – the false economies of not changing classifications, or not hiring qualified people, or forgoing training.

The State does not even systematically conduct exit interviews with departing employees -- one of the easiest and most traditional ways to gather information.

To a degree, these gaps are the product of the way in which the State decentralized functions and the State's failure to make the roles and responsibilities of the various agencies clear to the people who must use them. In other cases, the gaps mark opportunities lost to the now two decade-old cold war between the two agencies.

Other governments have had to deal with this same problem; some have done so effectively and some have not. For example, after studying the reforms crafted by the Australian Public Service Commission, one analyst articulated a new role for the federal Office of Personnel Management – functions the state of California needs just as much. The centralized and coordinated functions would be:

> *... framing the government's human resources policy, defining the skills and training workers in the skills they will need, collecting basic information on the system and its operation, monitoring and evaluating the system, discovering and promoting best practice, and using this information to adjust the strategies if necessary.*[28]

❖ *Assess Compatibility*

The complicated history of this structure prevents easy solutions. Many of the fiscal controls were put in place when abuses were more prevalent and harder to detect. They predate automation and other technologies that provide more options for monitoring transactions, change the economies of scale, and reduce the needs for separating certain functions.

The evolution of agencies has confused missions and diminished core competencies. For example, the Personnel Board was expert in crafting exams. Some departments have acquired that expertise, others have not. The Personnel Board is still looking for ways to satisfy the State's testing needs, but policy makers have not provided direction or resources to support the board.

DPA was created in the wake of collective bargaining to negotiate on behalf of the Governor, because that role was clearly at odds with SPB's merit-related functions. But DPA over the years has come to function more like a corporate personnel agency on issues such as training and policy development.

At times both agencies act like service organizations, there to help departments fill their personnel needs, sometimes for a fee. At other times they function like a control agent – giving permission to departments that want to create a new class or give an employee a raise.

In thinking about how this infrastructure can be reconstituted, it will be important to recognize the compatibility of certain functions when placed within the same organization. Some organizational experts, for instance, believe it is hard for organizations to both enforce regulations and provide services. Naturally it is hard for an organization to be viewed as a neutral venue for resolving disputes and as a representative of one of the parties.

In addition, reformers should consider the compatibility between the functions and the organization charged with those functions. Among the considerations are core competencies and culture:

- ***Core Competency.*** Successful organizations institutionally own a set of skills and subject matter expertise that has been the foundation of their success. In government, some agencies are recognized as efficient service providers, or as fair and effective regulators. Core competencies are not developed quickly or accidentally, yet often departments are assigned functions that are not supported by core competencies.

- ***Culture.*** Just as organizations possess skills developed over their history, they possess a culture. The culture influences how they make decisions, how they adapt to changing conditions and how they interact with other agencies. Culture is reflected in how an organization defines itself, what it sees as its role and how it hopes to impact other organizations around it.

❖ *Align and Adapt*

As described above, reformers need to develop a common understanding of which functions are needed, and the limitations or advantages for how some of the fundamental roles can be grouped. Based on that understanding, they could begin the difficult task of aligning and adapting the infrastructure to efficiently provide the controls and protections, to effectively deliver the services that are best centralized, and to coordinate and support those functions that are best accomplished by individual departments.

Without a strong executive vision, the job will be impossible. Without clear communication with the various departments, the reforms will not be grounded in reality. And even then reforms will have to clear hurdles including constitutional definition and interpretations of the State Personnel Board and its functions, the size and diversity of executive branch departments, and the desire to protect historic jurisdictions.

Reformers also will have to deal with the reality that old governmental organizations are difficult to eliminate, which is one reason why in the current times new organizations are difficult to create. Delivering meaningful reform will require balancing the ideal with the possible. But if large common ground can be developed, the more realignment will be possible.

The executive officer of the SPB described in broad terms the goals of a more effective human resource system:

> *I believe that the challenge for us is to enable departments to integrate (human resources) into their strategic planning efforts by providing efficient, effective HR systems, techniques, training and education to departments with sufficient discretion and authority to permit departments to manage their HR and achieve their strategic organizational objectives.*

He articulated three paths:

1. *Provide departments and employees with flexible, merit-based personnel techniques and strategies to address departmental and employee needs.*

2. *Develop expertise in departments to manage these tailored HR systems and install sufficient accountability to ensure that they operate within the merit provisions of the constitution.*

3. *Develop a cooperative employee-management strategy in the development and implementation of these new systems.*

But even if there were agreement on these goals, there would today be significant disagreement on who should be responsible for different aspects of this plan and how it would be accomplished. The steps described above

are one way these goals could be considered, the details could be developed, and an acceptable realignment could be fashioned.

❖ *Informed Deliberations*

Reorganizing government is an enormous task. Unilaterally imposed solutions are often doomed because interest groups do not have ownership, or do not believe their concerns were considered when plans were drafted. Given the state of labor relationship, the best light that can be shined on unilaterally crafted reorganization plans is suspicion.

At the same time, negotiated solutions often do not provide technically sound results. There is often no way for the self-interests of those at the table to be informed or aligned with the larger interests. In this case the unrepresented interest is the public, which pays for the system and lives with its failings.

The State needs a technically sound solution. But analysis alone will not generate the support necessary for acceptance by the various interests, or effective implementation of any reorganization that might be approved.

However, analysis can provide the information necessary for sound judgments. Analysis can define the universe of technically acceptable alternatives, and a basis for weighing those alternatives against political considerations. Analysis can build common ground, and transform negotiations into informed deliberations.

Summary

The evolution of government has provided the State with a confusing, inefficient and ineffective personnel infrastructure. The State needs to redefine what functions it needs from centralized personnel agencies and thoughtfully analyze the options for providing those functions. Through deliberations, it can then craft a structure that is both technically sound and acceptable to all of the parties. A solution without both of those ingredients has little chance of being approved and implemented.

PRINCIPLE FOR REFORM 4:

Unified Management

The State needs a management corps comprised of the best available talent, trained to achieve goals, compensated to reward performance and protected by a system of graduated tenure.

- ***Balance interests.*** *The parameters of the new corps need to balance the tension between the desire to develop a unified, responsive and well-trained management corps with the need to protect the public from incompetent patronage hiring.*

- ***Best available talent.*** *The State needs to recruit the best person for the job. As with many organizations, the best candidate may already be employed by the organization. But the selection process should not ordinarily limit the pool of potential talent to the state workforce.*

- ***A unified corps.*** *Currently there are artificial distinctions between supervisors, managers, Career Executive Assignment and exempt employees that are the product of political compromises rather than an appropriate balancing of public protections and good management practices.*

- ***A well-trained corps.*** *While effective organizations need well-trained employees in all positions, it is particularly important to train managers to effectively bring change, deal with people and improve services to the public.*

❖ *Balance Interests*

The fundamental purpose of civil service laws and the principles for effective management clash at the highest level of public organizations.

Historically, the civil service laws were crafted to protect the public from the ill effects of patronage. When top government jobs become rewards for political supporters, the public is vulnerable to incurring the costs of incompetence and the abuse of authority.

The protection devised more than a century ago were laws creating a system of professional public employees who were selected through tests intended to gauge competence and once employed could not be easily dismissed from their job to make way for political operatives. These two tools – selection based on merit and job tenure – reduced the political influence over public employment.

But it also reduced the ability of elected and appointed officials to bring about the changes in government that presumably the public elected them to deliver. The selection system does not always deliver a competent employee and tenure makes it difficult to punish, reassign or terminate those who could not get the job done.

Through decades of mostly political compromises, the State has put in place a tiered management structure comprised of the following positions:

- ***Exempt employees***. The Constitution and long-standing civil service laws have allowed the Governor and his appointees to select top-level officials who are "exempt" from the civil service. During a reform effort in the early 1980s, the Legislature responded to complaints that the Governor did not have enough control over the highest level of personnel by allowing the Governor to appoint additional exempt employees, while putting a cap on "exempts" at one-half of 1 percent of the executive branch workforce.

- ***Career Executive Assignment employees.*** In 1963, in a groundbreaking effort to blend civil service protections with managerial flexibility, the Legislature created the Career Executive Assignment (CEA) classification. As a barrier to patronage, appointments to the CEA must come from civil service positions. To encourage accountability, CEA employees worked at the discretion of those who appointed them. If terminated, CEAs have return rights to their last civil service classification.

- ***Management classifications.*** Within the civil service system, the State has a number of "management" classifications. These classifications enjoy all of the protections of the civil service, and receive a richer benefit package as compensation for their responsibilities. In recent years, some regulatory and administrative efforts have been put in place to reduce the tenure – primarily by extending the probationary period – as a way to increase accountability and management discretion.

- ***Supervisory classifications.*** Like managers, supervisors enjoy civil service protections, while receiving slightly richer benefits. No significant efforts have been made to lower the tenure protections of supervisors.

Importantly, none of the positions described above are covered by collective bargaining agreements. The salaries and other terms and conditions of employment for managers and supervisors are established by the Governor and the Legislature based on a "meet and confer" process involving representatives of the administration and the managers and supervisors. Salaries for exempt and CEA positions are established by the Legislature and the Governor.

This fragile system has been built on political settlements rather than on best personnel practices. A recent reminder of this is the effort in recent years by line departments and the Department of Personnel Administration to reclassify a number of management positions as CEAs. By doing so, executives would increase management discretion -- not only in assignment, but compensation. Union representatives, frustrated that cost of living increases were languishing in stalled contract negotiations, viewed the conversions as an assault on the civil service system. The unions fought the conversions as they went to the SPB for approval. They also turned to the Legislature, which in the 1997-98 budget prohibited SPB from converting positions into the CEA unless the positions were vacant.[29]

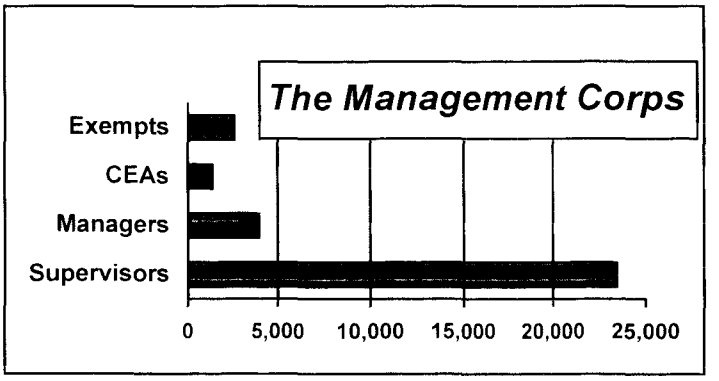
Between 1995 and 1998, the ranks of the CEA grew from approximately 950 to 1,400. Even with the legislatively imposed restriction, the SPB received 60 requests to convert management positions to CEA positions during fiscal year 1997-98. It granted 54 of those requests.

As Defined by Law

Government Code Section 18993: "**Career executive assignment** means an appointment to a high administrative and policy influencing position within the State civil service in which the incumbent's primary responsibility is the managing of a major function or the rendering of management advice to top-level of state service and is typified by board responsibility for policy implementation and extensive participation in policy evolvement. Assignment by appointment to such a position does not confer any rights or status in the position other than provided in Article 9.

Government Code Section 3513(e) "**Managerial employee**" means any employee having significant responsibilities for formulating or administering agency or departmental policies and programs or administering an agency or department.

(g) "**Supervisory employee**" means any individual, regardless of the job description or title, having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend this action, if, in connection with the foregoing, the exercise of this authority is not of a merely routine or clerical nature, but requires the use of independent judgment. Employees whose duties are substantially similar to those of their subordinates shall not be considered to be supervisory employees.



Ironically, while the administration and union officials have created a tug-of-war over CEA positions, the departments have not fully utilized the ability to create exempt positions that were created by the reforms of the early 1980s. In 1998, 192 employees were so-called "wildcard" exempts, but the law would have allowed for 75 more exempts to be working in high-level positions. One reason cited by a personnel official for the vacancies was the difficulty getting the Governor's office to approve the selection of individuals who would hold exempt positions.

The debate, however, has never focused on how to best create a responsive, accountable and merit-based management corps. A chief concern to defenders of traditional civil service protections has been the importance of tenure to protect high-level administrative posts from patronage.

Statistically, departments and the SPB have found that there has not been significant turnover in CEA positions when administrations change -- indicating that the CEA has not been used to politicize the executive branch. Still, union representatives believe the "at will" characteristic of CEAs make them vulnerable to political pressures, forcing them to make decisions that are in the interest of political appointees rather than in the public interest.

Further flexibility in the tenure of managers and supervisors would improve the State's ability to deal with performance problems at these levels. But the director of DPA believes the State should carefully link tenure with job status and performance:

> *Even though tenure is often seen as an impediment to dealing with public employee performance problems, it is also a merit protection that guards against excessive workforce instability and patronage. Therefore, rather than being open-ended, any change in the tenure provision for these levels should be linked to critical aspects of managerial and supervisory job performance."*

Another approach is to extend the probationary period, to ensure that tenure is not granted to unproven employees. For instance, DPA's managerial consolidation project retains the traditional 12-month probationary period, but allows probation to be extended another 12 months if certain criteria apply.

While the next cadre of managers must be politically acceptable, it also should be built on sound personnel practices, including the best available talent, which was unified in its effort to improve public services and trained for the job.

❖ *The Best Available Talent*

In one crucial regard, the current personnel system fails to meet its primary goal of ensuring that the most qualified people fill crucial positions within government.

Exempts are selected and retained at the complete discretion of the administration. Union representatives routinely describe these positions in the way that they view them: patronage jobs. Executives view these positions as critical to an organization's success and the "at will" status provides the needed accountability. Both views can be simultaneously correct. And still, there is no check or even objective standard for gauging the caliber of exempt employees.

The process for selecting CEAs fails the "best available talent" test because they can only be selected from the ranks of the civil service, precluding the recruitment of a more suitable worker from outside of state service.

Managers and supervisors can be hired through "open" examinations, in which anyone meeting the qualifications can be considered. But they also can be hired through promotional-only exams that are limited to those within the civil service, and sometimes even limited to those within a certain department. While statistics are not kept, personnel officials say that as a matter of practice the majority of managerial and supervisory positions are filled from within.

Finding the Right Person

The Department of General Services has pioneered a way to find the right person for management and supervisory positions.

The department's demonstration project consolidated 79 classifications into just two broad classes. The specific skills that were reflected in the classifications were reassigned to specific jobs. The department then developed a process for screening applicants who applied from inside or outside of state service and for comparing their skills against the specific requirements of available positions.

The department maintains the process is more efficient than conducting exams for each classification and it is more effective at finding the right person for the job. Officials also say it is friendlier to applicants, who quickly find out if they have a shot at a job without having to take a different exam for each class.

While the opportunity to be promoted from within an organization is important to morale, personnel officers say they rely on promotions for less than desirable reasons: The existing process for open exams can be enormously costly and time consuming – and they have neither the resources nor the time. Of equal importance, as described in Principle for Reform 9, the examination and selection process is often not an accurate or effective mechanism for matching the right person to the job.

In short, it is easier and cheaper for the personnel officers to promote the less-qualified, but better-known candidate from within than to go to the time and expense to find the more qualified candidate working for another government agency or the private sector.

The selection process needs to be improved at all levels. But the consequences of an inaccurate and costly examination process cause particular problems within management, where true merit-based appointment would yield benefits organization-wide.

While it is common for the private sector to hire away top performing state managers, the State lacks a mechanism for bringing proven top performers into state service.

❖ *A Unified Corps*

One justification for the tiered approach to management is that top level officials make policy, while managers implement it. The courts agreed with that concept when they ruled on challenges to the creation of the Career Executive Assignment classification.

But the problem is that even the law is unclear on the concept, and trends in the workplace are counter to such neat distinctions between deciding what gets done and deciding how things get done. The State Employer-Employee Relations Act, in order to define the collective bargaining rights of rank-and-file workers, had to distinguish between line employees, supervisors and managers. And drafters clearly saw managers -- in addition to CEAs and exempts -- as having policy-making functions.

In addition, the success of a policy or program can be determined as much by how it is implemented as how it is designed. Implementation almost always requires judgments that on a micro-level are defining policy.

Third, and perhaps most important, successful organizations are breaking down these walls between design and implementation -- turning not just to managers and supervisors, but to rank-and-file workers to help decide how to define what needs to be done and design a process for accomplishing it.

Managerial Consolidation Project

Twenty-three departments plan to participate in a demonstration project to convert 76 managerial classes into 13 managerial broad band classifications involving 330 employees. The project, approved by SPB in October 1998, is intended to develop flexible classification and pay structure for managers.

In this case, as in other broad bands, the specific job qualifications – experience, education, licenses – move from the class to the position. The examination, in turn, is created for the position. Eligibility lists are not required for single-function positions, but the selection must be through a competitive process. Tests can be open or promotional. If they are open, the recruitment can be focused to limit the size of the candidate pool.

"Merit" will be preserved by requiring the departments to craft specific procedures for the examination and criteria for evaluating exams. Comparisons can then be made of candidates' knowledge, skills, and abilities. Eligible employees who are not hired can appeal to the SPB, which waived selection statutes to allow the experiment. The project also will allow managers to receive a 5 percent raise annually based on performance. And there are two bonuses available: A 5 percent temporary salary boost for enhanced assignments," and an annual 10 percent bonus.

A Well-Trained Corps

Training, as discussed in Principle for Reform 10, needs improvement across the board. But its value in developing a corps of expert management warrants particular notice. Training is important because organizations tend to promote their best professionals into management. While those people have been trained in their profession and may have the potential to be expert managers, they need the training to develop managerial skills.

Public and private organizations have long recognized the need to assist professionals transitioning from subject-area experts into managers. But that need becomes even greater when the role of managers is to change organizations. Training was integral to all of the successful efforts to reform public organizations. And there also is a growing recognition that contemporary public managers need more skills than their predecessors. One public administration expert, assesses the federal government's needs, characterized the challenge this way:

> *To shepherd this complex system, the federal government will need a strong but powerful core of career officials to carry the government's institutional memory, to supervise the government's vast network of partners, to ensure that the government remains a smart buyer, and to give life to the fundamental values that define public service.*[30]

The Federal Corps

When the federal government thought about creating an executive corps, it looked to California's then newly minted Career Executive Assignment program.

But in the decades since, the federal Senior Executive Service has evolved – and is evolving – in ways that may provide lessons to California.

For starters, SES vacancies can be filled from outside of the federal service. To ensure selections are based on merit, a panel within the agency rates applications. Appointment decisions are then peer reviewed by a Qualifications Review Board, which is convened by the Office of Personnel Management.

The board looks for certain characteristics, including the ability to lead change in organizations and people, being results driven, having a business acumen, and having the ability to build coalitions and communicate.

Critics of the service believe more needs to be done to train SES members and ensure they have the varied experiences needed for them to become part of an elite corps of versatile and adaptive managers who can make changes in troubled and stagnated organizations.

Reforms are now being crafted to increase accountability and the rewards available for exemplary service.

The federal government also is considering creating two corps – one for professionals with specialized skills and the other for managers whose abilities to solve problems transcend subject specialties.

Training is one area where the State has made some progress. The State has long required that supervisors and managers receive training each year. A number of departments have strategically used that time to augment accomplished professionals with the skills needed to be expert supervisors. The potential for this kind of training to diminish other problems in state service is described in the discipline discussion of Principle of Reform 11.

The State also has initiated a leadership institute that is scheduled to start in 1999. Modeled after the Federal Executive Institute, the State has teamed with the University of Southern California to develop a curriculum for high-level managers. The curriculum is designed to emphasize problem solving, leadership, and a practical and theoretical understanding of the fundamental challenges confronting public agencies. Unfortunately, this intense program is only expected to reach 130 top managers a year, a small number of the state employees climbing the career ladder.

A lingering concern, however, is the vulnerability of training to budget cuts and the reluctance of managers to take time away from the day-to-day responsibilities, to learn more skills. In rethinking how to develop an expert management team, fundamental training needs this corps and developing ways to institutionalize that training.

Summary

The State needs a unified corps of skilled managers to lead state agencies into the next century. While demonstration projects will provide valuable experience in ways to streamline selection process, these projects by themselves cannot provide the cohesive team of qualified managers that the State needs to efficiently deliver effective public programs.

PRINCIPLE FOR REFORM 5:

Productive Bargaining

The State should explore interest-based negotiations and other modifications to the collective bargaining process to increase the opportunities to timely reach mutually beneficial agreements.

- ***Structural or process change.*** *The stalemate in recent years has prompted many personnel officials, managers and labor representatives to believe that changes to the structure of the bargaining process or in negotiating methods could increase the chances that acceptable agreements could be reached.*

- ***The scope of bargaining.*** *A growing concern is the type of issues that are brought to the table. Disputes have arisen between control agencies over the jurisdiction of issues such as discipline. Because there are so many bargaining units, unique provisions can greatly complicate the ability of departments to effectively manage personnel, and makes it hard for union officials to inform and assist members.*

- ***Consensus-based reform.*** *One way to accomplish this scrutiny would be for the Governor to empanel a group to analyze the issue and develop a consensus-based alternative. The panel could include labor, management, legislative and academic experts, who through analysis-based deliberations could agree on structural changes or negotiating practices that would better serve the State.*

❖ *Structural and Process Change*

Rather than a venue for resolving disputes, the bargaining table has become a battleground. Most of the State's 21 collective bargaining units have not had agreements in more than three years, reducing morale of rank-and-file workers.

Some stakeholders believe the current stalemate is a matter of personalities. They look to the electoral process to change the dynamics of the bargaining table. Other stakeholders see the stalemate as the result of adversarial negotiating tactics that have historically dominated collective bargaining situations. They believe the State should pursue interest-based bargaining, which supplants the traditional zero-sum negotiations with tactics intended to produce agreements in which both sides believe they have gained.

Still others believe the State Employer-Employee Relations Act, which authorizes and defines collective bargaining for state employees, should be modified to encourage a quicker resolution of differences. There are a number of possible amendments -- from mechanisms intended to encourage agreement to mediation and arbitration. Some states and local governments have fact-finding provisions -- a process by which a neutral third party analyzes available financial resources and other disputed issues to provide a basis for negotiations. Others have turned to binding arbitration.

The State also could develop a hybrid system that relies on a compensation commission to issue recommendations to the Governor and the Legislature when bargaining fails to produce an agreement.

Finding Common Ground

Interest based bargaining is known by a number of names: win-win bargaining, mutual gains, interest-based problem-solving and integrative bargaining.

But according to the Federal Mediation and Conciliation Service, all of these terms describe a process that has been successfully used to improve management-labor relationships and find solutions that benefit all parties.

The consistent principles of interest-based bargaining are:

- ❑ Sharing relevant information is critical for effective solutions.
- ❑ Focus on issues, not personalities.
- ❑ Focus on the present and future, not the past.
- ❑ Focus on the interests underlying the issues, not only on positions.
- ❑ Focus on the mutual interests, and helping to satisfy the other party's interests as well as your own.
- ❑ Brainstorming can generate options to satisfy mutual and separate interests.
- ❑ Options to satisfy those interests should be evaluated by objective criteria, rather than power or leverage.

The Secretary of Labor's Task force found numerous cases where stalemates at the bargaining table were broken when labor and management adopted different strategies for identifying needs and exploring solutions. In one Maine School District, after years of confrontational and unproductive negotiations, the two sides

agreed to try "preventive mediation." They employed major elements of collaborative bargaining, they brought more people to the table and they brainstormed "standards" for solutions. They came to the table with problems rather than answers, and then focused on solving problems rather than making tradeoffs. They reached what both sides thought was a better agreement in less time.[31]

Another example cited by the task force shows the long-term value in productive bargaining practices:

> *In Phoenix a new fire chief and new president of the Firefighters Local 493 took office in 1978. They decided it was time to work together and end nearly 40 years of contentious and adversarial relations. They initiated annual planning retreats during which labor and management jointly develop annual plans for addressing problems and seeking improvement. Arbitration has not been used in Phoenix for 10 years.*

In some of the case studies examined by the task force, the two sides set out to improve the bargaining process. In others, however, efforts to improve cooperation at the workplace often inspired efforts to improve collective bargaining relationships. In other instances, improvements at the bargaining table supported cooperative efforts at the workplace.

The successes cited by the Secretary of Labor's task force has inspired other governments to pursue cooperative approaches. In Ramsey County, Minnesota, interest-based bargaining was employed to get past years of poor labor relations and to effectively reorganize the county's health-related services.[32]

To initiate the effort, all of the parties participated in a half-day orientation, which was followed by two days of intensive training and a one-day follow-up session. The parties were taught how to use procedures proven to reach agreements, how to behave productively at the bargaining table and how to effectively communicate.

County and union officials reported that communication has improved, the negotiating process is amicable and more employees are involved in finding acceptable solutions to previously intractable problems.

❖ *The Scope of Bargaining*

A persistent issue that has complicated efforts to mesh collective bargaining with the merit system is the scope of bargaining. From the department level, there are so many bargaining units that unique provisions can greatly complicate effective management of personnel, And from the union perspective, the conflicts can make it difficult to inform and assist members.

The director of DPA testified that when collective bargaining was created policy makers did not clearly define the scope of bargaining, particularly in

areas that had traditionally been considered part of the merit system, including pensions and discipline.

In many cases, the State Employer-Employee Relations Act provided for labor agreements to "supersede" the merit laws. But in controversial cases, the conflicts have spilled over to the State Personnel Board, to the Legislature, and to the Public Employment Relations Board. PERB has indicated that virtually all other provisions of law impacting terms and conditions of employment are within the scope of bargaining. But that position is not universally held, particularly by the Personnel Board, which believes it must retain a role in merit-related issues.

This problem is manifest in three ways:

- ***Encourages venue shopping.*** DPA's confidence in collective bargaining and SPB's interest in protecting the merit system are the most frequent sources of disputes. But when it is unclear how and where issues should be resolved, it opens the door to venue shopping – prolonging controversies as various sides seek favorable outcomes. The protracted process increases costs, politicizes disputes and can further degrade relationships between the parties.

- ***Confounds negotiations.*** Conflicts about what is within the scope of bargaining can confound efforts to negotiate issues that are clearly within the scope of bargaining. The efforts to cement needed procedural reforms through the collective bargaining process has prevented the two sides from reaching agreement on an important factor to workers – cost-of-living increases.

- ***Complicates personnel management.*** In order to reach agreement with individual bargaining units, unique provisions are negotiated for minor issues. But for individual departments the unique provisions make it hard to develop cohesive personnel systems.

Sometimes the ability to negotiate solutions to problems can fail because people expect too much from the process. Sometimes they fail because the parties give up on the negotiations and seek victories elsewhere. And sometimes agreements are reached, but they are ineffective because they are not focused on the issues that are important to the people who have to implement the agreement. In California, the collective bargaining process has suffered from all three maladies.

The conclusion of the Secretary of Labor's task force was that the more issues that could be raised at the table, the greater the potential for improvement. But the group also recognized that the scope of bargaining was a symbolic issue for many:

> *Because it affects the capacity of an agency or jurisdiction to improve service, the clearest need is for workers, managers and union leaders to be able to discuss the full range of issues affecting the service they were working to improve.*

In traditional settings, the task force noted this discussion is precluded by the fear of setting precedents. But in cooperative settings, where labor and management are focused on improving services, that fear is eased. And while some issues cannot be resolved at the table, there can be agreements by the two sides to pursue an acceptable solution to an issue in an appropriate venue.

❖ Consensus-based Reforms

As the Commission noted in its 1995 report, it is neither likely nor desirable that collective bargaining will be abolished. But over the last three years it has also become clear that collective bargaining cannot continue on its current path.

Other governments face the same challenge, which one analyst described in a list of questions that labor and management must find satisfactory answers to:

> *What is the purpose of union participation? How can it most effectively be used? What are its boundaries in a reformed system? Is it enough for unions just to be represented at the table? If not, what else? Perhaps the most basic question is of a slightly different variety: can traditional enemies become friends? Any serious reform, however, will have to provide answers to these tough questions.*[33]

In California, those questions are not being asked. The context of the latest negotiations has been to trade salary increases for changes in the personnel procedures. Both sides have come to describe those changes as "takeaways" which is an indicator of the problem. Civil service reforms should be changes that are mutually beneficial -- they are not something done to workers.

It also is possible that other recommendations within this report would ease tensions that have contributed to the bargaining stalemate. For example, if civil service reforms were guided by a common vision that labor helped to define, and specific reforms were crafted by managers and workers, the number of issues on the bargaining table would be reduced -- along with the tensions.

Summary

Twenty years after state workers were granted the right to collectively bargain for salaries and other terms of employment, the process is proving to be unproductive. While it is unclear how the State can best resolve this problem, it is clear that the issue should be examined by a group of labor, management and personnel experts who could best assess whether the State should change its bargaining structure or process. The evidence from case studies elsewhere show that other governments have overcome poor relations at the negotiating table and been able to reach productive agreements.

PRINCIPLE FOR REFORM 6:

Effective Compensation

The State needs compensation strategies that routinely adjust wages to changes in the marketplace, that link step increases to an employee's growing capabilities, and reward to individuals and teams of workers who contribute to improvements in efficiency and productivity.

- ***Consider systematic change.*** *The evolution of the wage-setting process has left the State without a common understanding on how salaries and benefits can and should compensate, motivate and reward workers.*

- ***Attract competence.*** *In particular, the State needs to analytically consider how well compensation is attracting and retaining the caliber of worker needed to increase the productivity of state operations.*

❖ *Consider Systematic Change*

A fundamental roadblock in the collective bargaining process has been the issue of employee pay. While reforming the collective bargaining process may more quickly produce mutually acceptable solutions, it also is possible that the State should consider separately how it defines compensation.

Prior to collective bargaining, the State Personnel Board reviewed wages and recommended changes to the Governor and the Legislature, which considered those modifications as part of the budget-making process. The statutes at the time established principles for the board to use when making modifications: that "the proper internal salary relationships" should be maintained, that state salaries be kept generally in line with private industry and other governmental agencies, and that salary increases stay within legislatively determined budgetary limits.

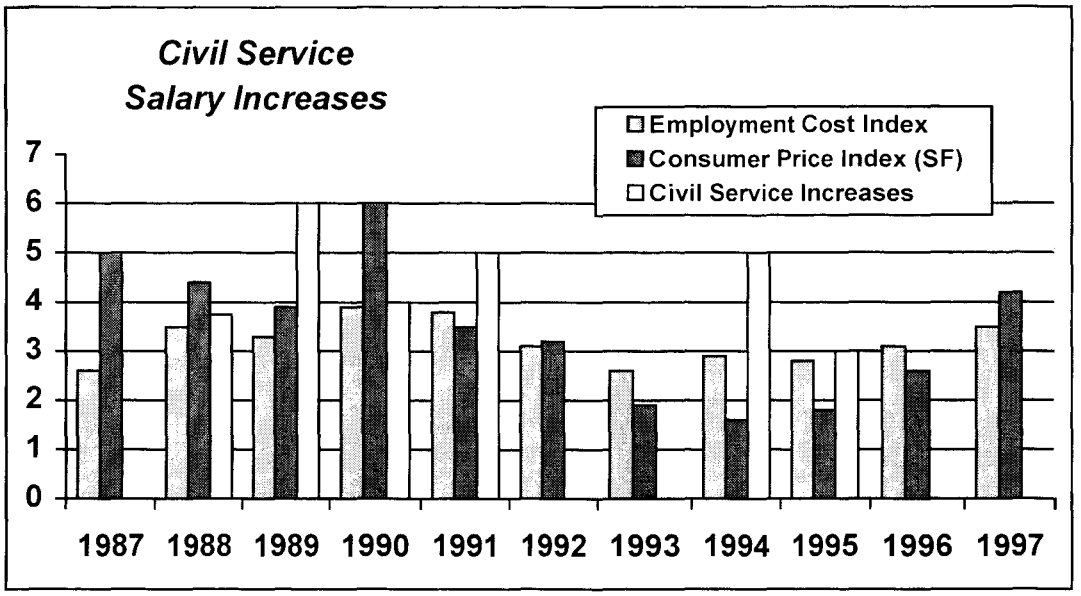
After the State adopted collective bargaining, the new law was challenged in court on the grounds it unconstitutionally seized the State Personnel Board's authority to establish classifications. In *PLF vs. Brown*, the California Supreme Court ruled that just because SPB establishes classifications does not mean that it must set salaries.

In enacting the State Employer-Employee Relations Act, the Legislature reassigned a statutory function of setting salaries to the Department of Personnel Administration. But in hindsight, the law did not provide for the principles that should guide labor or management in determining salaries. Under contemporary law, the Department of Personnel Administration is guided in how it should establish salaries for each classification of excluded employees:

> *"The salary range shall be based on the principle that like salaries should be paid for comparable duties and responsibilities. In establishing or changing these ranges consideration shall be given to the prevailing rates for comparable service in other public employment and in private business. The department shall make no adjustments that require expenditures in excess of existing appropriations that may be used for salary increase purposes.*[34]

But that provision of law does not apply to employees covered by collective bargaining. As a result, salary ranges for rank-and-file employees are established at the collective bargaining table. Modifications are negotiated individually with 21 different bargaining units. The modifications are often described as cost-of-living increases, but the amounts are not strictly tied to any economic index. The agreements must then be approved by the Legislature, giving it final say on the expenditure of public funds.

The chart displays the cost of living increases negotiated with state civil service workers over the last decade, along with the consumer price index for the San Francisco Bay Area and the "employment cost index" for western states, which is based on a salary survey of public and private employers conducted by the U.S. Bureau of Labor Statistics.



Over this time period, the average annual increase in the employment cost index was 3.19 percent. The average annual increase in the consumer price index was 3.46 percent. And the average annual increase in civil service salaries was 2.43 percent.

While collective bargaining changed how salary increases were determined, it did not dramatically change the salary structure. Within classifications, employees move almost automatically through "step" increases that are intended to reflect a growing competence on the part of the workers.

The Little Hoover Commission in 1995 pointed out that under the current system it is harder to deny a step increase than to allow the increase to be enacted. The Commission advocated step increases be granted based on performance.

In recent years, however, the administration has pursued pay-for-performance as a substitute for cost-of-living adjustments and step increases. The administration asserted that with more than 70 percent of rank-and-file workers at the top of the scale for their class limiting performance pay to step increases would insulate most workers from the incentives of performance-based pay.

The administration maintains that a majority of private sector employers have moved to a performance-based pay model. However, the proposal sparked significant opposition from labor unions for any efforts to base compensation on a worker's contributions. So while compensation is a major component of a competent and motivated workforce, the State's compensation policies have devolved into a large source of controversy.

The controversy is an indication of a deeper problem – the lack of an official compensation policy. Negotiators for labor and management, the Governor and the Legislature, department directors and line managers, do not have a set of common principles for what the State wants to accomplish with the compensation system.

The state may need to consider alternative procedures for setting salaries, including the use of neutral sources to review market trends and trends in personnel practices and recommend changes. But before structural changes can be made state policy makers need to articulate what the State needs to achieve with its compensation system.

❖ *Attracting Competence*

At the workplace level, personnel managers are frustrated that some salaries are not high enough to attract and retain high-quality workers, particularly those with specialized skills that are in high demand. While that problem is most acute during good economic times and for workers in demand in the private sector, it is indicative of a larger problem: The State does not have a way to assess how effective its compensation system is at attracting, rewarding and retaining high caliber workers.

The Department of Personnel Administration says it relies on salary surveys that compare state wage rates with those charged in similar industries. For classifications without private-sector counterparts, they monitor the wages paid by comparable public agencies.

At the same time, union negotiators maintain that their proposals are often based on the salaries that are paid to similar classifications in the private sector. And when they propose a pay increase, DPA negotiators reply that if the State is not having a recruitment problem for a given classification, there is no reason to raise salaries.

Not only is it important to resolve the dispute, it is important that the State pay wages that are high enough to attract and retain high-quality workers. Anything less may be costing the State more through additional recruiting, selection, and training than the higher salaries would.

The personnel system is loaded with costs that go far beyond wages. There are the costs of recruiting, examining, selecting and training workers -- expenses that rise with turnover, even if there are more applicants than openings. Similarly, there are costs of dealing with workers who may have met the minimum qualifications for the job, but do not live up to the State's expectations. There is the cost of lower productivity, sick time, disciplinary actions.

Salary comparisons are important because the state does not want to be far out of step from the market in either direction. But that is only one indication of what salaries should be. Comparisons do not tell managers how well the salary scale is working with other aspects of employment that can determine retention and productivity -- including benefits, working conditions, opportunities for advancement, training.

And the state does not collect information that would tell it when recruitment and retention are problems until the problem is obvious. The State does not track how long employees stay in state service, or in different departments or classifications, or where they go when they leave, or why they leave. Similarly, without knowing the costs associated with turnover,

the State does not know when it is worth investing more to increase retention.

Summary

The State's mechanism for setting salaries has gone through a number of major changes in the last 20 years. In addition, the marketplace and best practices among employers public and private have evolved. The State needs to rethink its compensation strategy and the mechanisms it uses to make changes to salary schedules in accordance with that strategy.

PRINCIPLE FOR REFORM 7:

Flexible Classification

The State needs a flexible classification system that accurately reflects job assignment, appropriately compensates workers, and enables managers to better use the State's human resources.

- ***Fair but flexible.*** *As the backbone of the civil service system, the classification plan has been relied upon to provide for merit-based selection, job assignment and compensation. But the plan has to be flexible enough to allow for managers to efficiently and effectively fill positions and assign work, and for employees to excel in the workplace.*

- ***Evaluate reforms.*** *Classification is one aspect of the system where significant experimentation has occurred. But for these efforts to be useful, they must be honestly evaluated, and when successful, widely replicated.*

❖ *Fair But Flexible*

One of the most fundamental aspects of the State's personnel infrastructure is the classification system. Classifications are used in structuring organizational work flows and in establishing budgets. They shape examination, selection, compensation and promotional decisions.

As a result, many of the maladies plaguing state human resources are either caused by -- or can be detected in -- the classification system. The rigidity of the system makes it hard for departments to re-engineer their procedures, reassign workloads, reallocate resources and respond to changing public priorities. In turn, managers too often attempt to change or create classifications because of the failings of the examination and selection process to efficiently yield the best candidate for an opening. Similarly, managers occasionally create new classes because existing compensation policies are not adequate to retain and reward superior workers.

As Defined in Law

Government Code section 18523: "Class is defined as a group of positions sufficiently similar with respect to duties and responsibilities that the same title may reasonably and fairly be used to designate each person allocated to the class and that substantially the same test for fitness may be used and that substantially the same minimum qualifications may be required and that the same schedule of compensation may be applied with equity."

As a result, one indicator of the problem is the growth in classifications: In 1913 when the classification plan was established, the State had 198 classes for 4,489 civil servants. Today it has nearly 5,000 classifications for 170,000 employees.

From the labor perspective, the most common complaint that unions receive from members is working out-of-class, and the process for resolving those claims is cumbersome and lengthy.

The rigidity of the classification system creates problems for employees, as well, making it hard for them to advance by creating solid barriers to promotion and higher pay, and as a result, some employee representatives have supported broad-banding efforts.[35]

As described previously, the problems associated with the classification plan are complicated by the State's fractured personnel infrastructure. Creating a new classification or amending an existing one requires the concurrence of both agencies – a substantial amount of paperwork in order to redefine a position that in many cases is only held by one or a small number of workers.

And while both the Department of Personnel Administration and the State Personnel Board have some responsibility over classifications, neither agency has consistently monitored, evaluated or recommended comprehensive reforms that could make the plan more effective.

As a result, changing the classification plan is the most common reform attempted. In most instances, reformers have attempted to consolidate classes as a way to ease the procedural burdens associated with selection and job assignment.

To date, the solution has been to create broader classifications, which allow for a wider range of assignments to be covered by a broader group of employees. Essentially, broad-banding moves specific minimum requirements from the classification to the position. This enables managers to more easily hire new employees and assign workers based on individual capacities.

Broad-banding also allows those qualifications to be changed more easily as the requirements for the position change. Historically these changes, if part of the classification plan, had to be approved by the department personnel office, the DPA, the SPB, and often the unions.

The tension is between the desire of managers to create broad classifications that allowed for flexibility in job assignment and the employee concern that broad classes can lead to inequities between job assignment and pay.

Faults in the Classification Plan

According to the director of DPA, California's classification system suffers from a number of problems:

- The numbers of narrow classifications lead to rigidity and cumbersome procedures which make the system slow to respond to changing needs.
- Efforts to monitor and control through classification review create unnecessary cost with staff resources that could be better utilized.
- Managers view of the system as an impediment rather than a tool to accomplish their program goals.
- Internal pay inequities result from the inability to recognize differences in individual jobs and employee qualifications and performance.

❖ *Evaluate Reforms*

The personnel reform that has advanced the farthest in state service has been the broad band. Broad-banding is the cornerstone of the Department of General Service's managerial consolidation demonstration project that will soon be implemented in more that 20 departments. Both experiments are described in Principle for Reform 4.

Similarly, broad-banding is the basis for demonstration projects at the Health and Welfare Data Center and the Department of Personnel Administration.

Few of the employees affected by the demonstration projects are rank-and-file, in large part because under the demonstration law union officials must agree to the project and given the current environment union officials remain skeptical of personnel reforms in general and broad-banding in particular.

Still, the early indications from most of these experiments in personnel reform is that the State can find a way to balance the merit-related rationale for classifications and the flexibility needed for responsive organizations.

But the effectiveness of these efforts could be undermined if the State does not develop a method for evaluating the programs that will tell program managers, policy makers, and labor representatives how well the system functioned, what was learned from the projects, and how the reforms might be expanded.

The responsibility for this evaluation rests with SPB. But it is not clear how the projects will be evaluated, and evaluations are difficult to design and usually limited in scope if they are organized after the experiment has run its course.

Of equal importance, it is unclear what will happen to the demonstration projects when their five-year terms have run. There is no mechanism for them to become permanent, no mechanism for them to be expanded, and little interest on the part of the departments of going back. For instance, the Department of Personnel Administration maintains it will be impossible to re-divide its workforce into the old classifications that it has consolidated into two.

Unfortunately, these uncertainties threaten to erode the potential of the projects to inform and inspire broader reforms. They also feed and give validity to union concerns that demonstration projects are not temporary experiments, but incremental reform enacted outside of a collaborative process.

Fortunately, just as broad-banding is now a common reform, other governments have developed evaluation measures. For example, the National Association of Public Administrators believes there should be two major objectives to a classification and compensation system:

- Employees should be treated fairly and equitably.
- The classification system should support effective work accomplishment and achievement of agencies' missions.[36]

Those principles would be a good place for evaluators to begin the assessment of California's demonstration projects.

Summary

The State's classification plan is both cause and symptom for much of what ails the personnel system. Fortunately, it also has proven to be the most fertile ground for reform. Departments are experimenting with ways to make the system fair but flexible, and the early indications are that improvements can be made. But the value of those experiments will be diminished without meaningful evaluation that will help policy makers decide how best to expand the reforms throughout state service.

PRINCIPLE FOR REFORM 8:

Coordinated Recruiting

The State needs a coordinated and effective way to ensure that the most qualified candidates know about the opportunities in state employment and are encouraged to pursue those opportunities.

- ***Coordinate efforts.*** *In good economic time and bad, the State needs to lure talent into its workforce. While the needs of individual departments change from year to year, the State's overall recruitment effort should be consistent and consolidated.*

- ***Recruit to Serve.*** *Because of the reliance on promotion to fill higher classifications and because of the nature of public employment, the State's recruitment efforts should manifest the values and social importance of a career in the civil service.*

❖ Coordinate Efforts

An under-whelming aspect of the State's personnel system is that with few exceptions it only considers those applicants who consider the State. Other organizations, private and public, have figured out that in good times and in bad it pays to recruit the best talent. The State, on the other hand, has failed to make that smallest investment in recruiting new workers.

A program manager for recruiting at California State University, Sacramento -- perhaps the most likely campus to recruit entry level professionals into state service -- said "six or seven" state agencies sends job flyers to the campus, but no agency sends representatives to talk to students about working for the State. While 200 companies recruit at the campus, the manager said the State does not come to informational meetings, or even brief the recruiters so that they can answer questions from students.

> *We are never sure what is expected from us. We are not even sure what their forms look like, who to call if we have questions, or where to send students if they want to apply.*[37]

The State's personnel officers said recruitment only becomes a topic of discussion when jobs go unfilled because the labor market is so tight. And since for so many years in the early 1990s unemployment was high, there was no recruitment plan to put in place as the economy improved and help wanted ads increased.

Historically, the State Personnel Board functioned as both a control agency for the merit system and as the centralized personnel office for state departments. With the advent of collective bargaining, the Department of Personnel Administration took on some of the "personnel office" functions, while individual departments gradually assumed responsibilities for recruiting, testing, and selecting new hires.

As a result, in recent years, individual departments, DPA and the SPB have all launched recruiting efforts -- often times inspired by a unique need for workers, the demands of the marketplace, or the personalities in charge of particular organizations at particular times. Inversely, none of the agencies believes it is responsible for recruitment in the State – for assessing the needs, developing a plan, finding the resources and training the staff, and then evaluating the effectiveness of the efforts.

As a result, the State's recruiting efforts are sporadic. Recruitment efforts have seldom been orchestrated. The success of recruitment and retention efforts are only gauged informally by the number of positions a department would like to fill, but cannot -- rather than by assessing the caliber of employees the State is hiring, promoting and retaining.

The Governor's 21st Century Action Training Team, while focused on training, recognized that a high performance workforce requires a continuum of effort:

> *State government needs to recognize and regard those civil servants who excel in their jobs and we need to recruit the best and the brightest into the state workforce. Recruiting agencies should ensure that the State is hiring, training, rewarding and promoting a workforce that is capable of moving state government into a more competitive and innovative organization.*[38]

The State Personnel Board reported that it is launching a recruitment effort at 20 university campuses, which will include visits. It also is attempting to coordinate "recruiting" by providing a common internet site for prospective applicants to explore the opportunities in state service. But these are minimal efforts when the labor market is tight and the State's labor needs are diverse.

Some of these problems could be resolved by clearly defining the roles of central personnel agencies. But departments and the oversight structure will need the skills, technology and resources to develop and evaluate an effective recruiting effort.

Importantly, recruiting may not be best performed by a single state agency. The better model may be a coordinated effort in which the techniques and resources are orchestrated by one department for use by all departments.

❖ *Recruit to Serve*

It is only a sign of the times that private companies are mobbing university campuses and offering large signing bonuses to graduating seniors – even those with liberal arts degrees usually not drafted by the private sector. And the State will not likely ever have to compete with a Fortune 500 company to attract the best social science graduates who are interested in helping welfare families get back on their feet.

Still, there are hundreds of government agencies in California alone – each of them looking for young and talented individuals to help them meet challenges similar to those facing California.

Recruiting also is important because many people who seek government employment are interested in public service and tend to stay with agencies for a long time. This tendency is reinforced by selection policies, described in the next chapter, that for better or worse favor candidates already working for the State.

That means the pool of candidates for entry level professional jobs, such as the staff services analyst classification, will in 10 or 15 years be the pool of candidates for management positions. To ensure the State has an adequate reservoir of high-quality senior level professionals and managers in the future, the State should continuously invest in recruiting the best possible college graduates from university campuses.

Finally, the Commission was reminded that an essential part of working for the State – and as a result, any recruitment effort – is the aspect of public service. The State offers young professionals something besides an expense

account -- the opportunity to make a difference. That benefit must be presented to candidates in order to attract those who find value in public service.

Chester Newland, a senior statesman among public administrators, told the Commission that the civil service is more than a job and one purpose of personnel reform should be to preserve and enhance the civic culture, and the public service of those in government employment.

That goal is consistent with efforts to create high performance organizations. To pursue either goal, the State should begin at the beginning -- by actively and visibly recruiting those who have the initiative to embrace change, the intellectual capacity to make change, and a spirited desire to serve the public.

Summary

The state does virtually no recruiting in good times or in bad to draw young, energetic graduates from its own university system into its workforce. Recruitment is particularly important because the pool of candidates for managing public programs is most often comprised of those who start their careers with government. Today the job market is an applicant's market, with employers making monetary offers to grads that the State would be hard pressed to match. Still, the State's presence on university campuses should be persistent - along with major high-tech companies and the Peace Corps.

PRINCIPLE FOR REFORM 9:

Accurate Selection

The State's examination and selection process should be adaptable to the needs of individual departments and specific positions, while more effectively allowing for merit-based decisions.

- ***Make good job-person matches.*** *While the traditional system has been an effective barrier to patronage, it frequently fails to identify and allow the State to hire the most qualified candidate.*

- ***Adaptability.*** *Many of the State's departments have unique personnel needs, and the examination and selection process needs to efficiently meet those needs.*

- ***Efficiency.*** *A fundamental shortcoming of the system is its cost of operation. In addition to the drain on budgets, the costs prompt managers and personnel officers to find ways around the system, encouraging decisions to be made on ease rather than merit.*

❖ Make Good Job-Person Matches

The State's examination and selection procedures lie at the heart of the traditional civil service system. The key words in the statute are that exams must be "competitive" and that selection must be limited to those who scored highest on the test.

What the Law Requires

Government Code Section 18900 requires that lists be established as a result of competitive examinations.

Section 18901 states that earlier lists take precedence over later lists and says that lists will last from one to four years. So if a list does not include candidates that the employer wants to hire, they are stuck – even if someone who is more qualified is waiting to be hired, but is not on the list.

Government Code Section 19057.1: "For any open employment list, there shall be certified to the appointing power the names and addresses of all those eligible whose scores, at time of certification, represent the three highest ranks on the employment list for the class, and who have indicated their willingness to accept appointment under the conditions of employment specified."

Examination and selection have become routine issues in discussion of civil service reform – mostly because the procedures used to ensure fairness did not function well and created huge hurdles for both the most qualified candidates and managers trying to fill vacancies with the best possible workers.

Selection is one area where improvements have been made. But selection-related reforms have been limited for the same reason as classification-related reforms.

Most of the improvements are on a limited scale. Most of the changes apply to a limited group of classifications or a limited number of departments. Most of the changes do not apply to rank-and file. Most of the new procedures are being done under temporary waivers from specific civil service statutes.

These improvements are valuable learning lessons, but they do not represent the kind of systematic change that is needed.

In general the examination and selection process works like this: Candidates file applications. Those who meet minimum qualifications are allowed to take the exam the next time it is offered, usually every one to four years. The exam is scored, the results are ranked and the list of "eligibles" is certified. Depending on the classification, departments can either hire from the top three individuals or the top three rankings of individuals on the list. All openings must then be filled from eligible or "reachable" candidates who are on the list for as long as the list is valid, which is typically four years.[39]

Among the many problems that personnel officers, managers, candidates and civil servants who would like to advance, two greatly inhibit good job-person matches:

- ***Examinations can be inaccurate.*** Examinations often do not accurately identify the best person for the job. One reason for this is that exams have been built on the parameters of classifications. The

classification may be too broad for the specific position, or too narrow if the demands on that position have changed. But either way, it is time consuming and costly to change classifications and create a new exam, so managers often rely on inaccurate examination tools.

- ***The candidate pool is frozen in time.*** Many examinations are only offered at specific times, sometimes years apart. So the hiring lists can only include those people who happened to take the test on the day it was offered. As a result, the best people on an old list are often no longer in the job market, while qualified people who were not in the job market when the test was offered are not eligible.

One example of the State Personnel Board's efforts to remedy this problem is its "on-line" examination for staff services analyst (SSA), the large classification that represents entry-level professionals. The exam allows a candidate to take the "test" at any time, and within a matter of days become eligible for selection. Prior to the new test the State would only offer the exam every few years, effectively denying many new college graduates the opportunity to begin their career by entering state service.

To take the test, applicants must meet minimum requirements in education and experience. The test is comprised of a series of "life experience" questions that are used to "score" candidates based on the breadth of their experiences. The test is intended to gauge experience in communication, analysis, technology and leadership. Based on the data, departments can search among the successful candidates for those people who report to have skills or the experience to meet the department's needs.

The test, however, is a significant departure from previous exams because it is pass-fail. Everyone who passes the test based on merit is ranked third. Because of preference points required by statute, veterans who pass the test are ranked second and disabled veterans who pass the test are ranked first.

The IT Litmus Test

The State has had a particularly hard time attracting and retaining high-quality information technology (IT) personnel. To explore the problem, a task force was created to identify the barriers to developing an effective IT workforce.

In an October 1998 report, the task force reached conclusions that resemble problems common throughout the personnel system, but are most evident in technology units. Among them:

"The State's examination process is decentralized, slow and highly dependent on intra-department coordination. It is not able to respond to rapidly changing business needs.

"The State's IT classification structure does not adequately describe the current work and fails to accommodate the rapidly changing needs of the Information technology industry."

The group also noted that the State does not invest in the training and development of individuals. The State's compensation package lags the industry and is not flexible enough to reward individuals. And the State does not effectively market job opportunities or recruit employees.

The board reports favorable reviews by the departments using the SSA exam. However, while the instrument has provided for continuous testing, it has not eliminated the rigidity of the selection process. At one point in the

fall of 1998 no department could hire a candidate who had ranked third (nearly everyone who had passed the test) because of a single laid off state employee with a limited set of skills who was seeking to be rehired. Under re-employment rules, the laid off employee was rank one, and the veterans were bumped to ranks two and three. All of the non-veteran candidates were pushed into the fourth rank and as a result ineligible for hire – regardless of their qualifications.

❖ *Adaptability*

As one potential solution to the inaccuracy of the selection techniques, departments have tried to adapt the examination and selection process to meet their particular needs. While there has been some success in this area, the most notable changes have been made under the demonstration project law, which allows civil service statues to be waived. As a result, those reforms are limited.

Hiring to Meet the Need

Like many organizations, the Health and Welfare Agency Data Center was having trouble recruiting competent information technology staff. Under the demonstration law, the data center collapsed classifications for data processors and support staff.

It then developed an examination and selection process that allows for specific jobs to be advertised to the public, and for anyone meeting the minimum qualifications to apply. Candidates are reviewed by a team of employees who assess the candidate against an established standard.

The Data Center believes the process is more efficient and more accurately identifies the best candidate for a new position.

For example, the Department of General Services' demonstration project described in Principle for Reform 4 has allowed the department to create selection procedures that were good at finding the kinds of professionals needed to work in its property management and procurement units. Many of the candidates are professionals who have not worked for government, are not familiar with the complicated selection process and who may not have gone to the trouble of figuring it out.

By streamlining the selection process, the department was able to broaden the candidate pool, which would seem to advance the principle of seeking the most qualified candidate. To ensure the decision is merit-based, the department assesses applicants based on position-based criteria. The management consolidation project also described in Principle for Reform 4 provides for departments to fill management positions through a similar process.

❖ *Efficiency*

The State does not calculate how much it spends on examinations. But even if it did, those costs would only be a part of the costs associated with the cumbersome selection instrument.

Preparing exams, conducting exams and scoring exams can be enormously time consuming as sometimes thousands of candidates apply, even for positions that will have a few openings over the "life of the list." The large applicant pool frustrates both applicants and examiners – applicants because they take tests for jobs they are not really qualified for and so have little chance of winning, and examiners who must score thousands of tests to find a few candidates who the department might want to hire.

Department personnel officers say they must frequently live with out-of-date exams because they do not have the resources to craft new ones – and as a result they must live with the consequences of an inaccurate examination.

High examination costs are the primary reason why departments chose to promote from within rather than look for a more qualified candidate in another department or outside of state service. While the outcome may be acceptable if the in-house candidate is suited for the job, the money saved by forgoing an open examination may be quickly lost if the promotion does not work out.

The inefficiencies of the selection process can increase costs in terms of qualified candidates who do not seek state employment. At best, the cumbersome procedures are a mystery to candidates and line managers.

The system is amazingly complex. Private classes are offered in how to get state jobs, and as one of the instructors put it, the most important characteristic a candidate can have is persistence. Departments publish guides for managers to guide them through the overgrown decision tree. And union officials say they routinely have to coach members how the system works, and these are the workers who managed to get through the selection process the first time.

Evidence of the system's complexity is *Capitol Weekly*, a newspaper that survives because it is a source of job notices. As the newspaper says in a Page 1 note to readers: "Gaining state employment and advancing in state service is a complicated process requiring a great deal of tenacity for all ambitious people."

The State Personnel Board and some unions maintain that the problems with the selection process are not systematic, but symptomatic of poorly trained and under-funded department personnel offices. The system works, they maintain, if it is used properly.

The SPB also points out that other than conducting exams, departments can hire employees from other departments, temporarily fill the jobs with employees on "training and development assignments," and through promotion. But each of these options limits the pool in ways that may

prevent the department from hiring the most qualified candidate and eventually departments should hire from the outside.

Summary

With the exception of limited reforms, the State's selection procedures do not always efficiently screen out unqualified candidates or effectively identify the most qualified candidates. Because of costs involved, the adherence to ineffective rules and overall inefficiencies, the process often prevents the timely filling of vacancies. In part because of these complications, managers are discouraged from looking outside of the civil service to find the most qualified candidate, and rather look at the promotional pool for the most qualified candidate already within the civil service system.

PRINCIPLE FOR REFORM 10:

Supportive Training

State policy makers and program managers need to use training programs to improve the effectiveness of their organizations, to support re-engineering efforts and prepare workers for new assignments.

- ***Coordinate efforts.*** *In recent years substantial efforts have been made to coordinate training strategies and opportunities, but the potential benefits for coordination have not yet been realized.*

- ***Train for change.*** *One skill universally needed in performance-based organizations is the ability to bring about change.*

- ***Measure benefits.*** *Too often program managers view training as a reward for good workers and a punishment for bad ones. To often policy makers view training as a luxury, easily cut in lean years. But training has the capacity to increase efficiency, allowing departments to do more with less.*

❖ Coordinate Efforts

While the State has made some significant improvements in its training programs, more needs to be done to ensure that the State adequately and wisely invests in training. The greatest need is coordination – between workers and supervisors, supervisors and their department leaders, and among departments.

Training for the 21st Century

The Governor's task force noted that technology, teaching techniques, business practices and changing public services all require the state to re-examine which state employees are trained and what they are trained to do.

Investing in the development of our workforce is a matter of economic competitiveness for the State of California. It should be regarded with the utmost seriousness and urgency. Our state requires a workforce which not only values the complexity of California, but one which is trained to provide the highest levels of customer service to our residents and those who visit our great state.

Partly in response to the Little Hoover Commission's 1995 recommendation that training be increased, the Governor created a task force, which published recommendations in 1998. The group's report, *Developing a High Performance Twenty First Century Workforce for California Government*, recommended ways that departments integrate planning efforts with their strategic plans.

The task force urged the Department of Finance and the Department of Personnel Administration to provide assistance to departments in how to use training to develop the skills needed to reach their goals and objectives.

It recommended that departments identify specific performance needs and the training that would develop those skills. And it urged employees and supervisors to rely on individual development plans to tailor training needs.

At this level, significantly more work is needed. While development plans are supposed to be crafted for each worker, the State does not have a uniform mechanism to ensure that the plans are prepared. The State does not even know how many are prepared. It is commonly recognized that development plans are not prepared for many employees. And when the development plans are prepared, there is nothing to ensure that the training is actually acquired.

❖ Train for Change

The Governor's 21st Century Training Action Team provided departments with concrete ways that training could be linked to a department's strategic plan to build the personnel infrastructure needed to focus and improve customer service. Similarly, the establishment of an executive institute with the University of Southern California has the potential to provide the State's top managers with needed skills.

Another next step for the State is to make sure that training is used effectively throughout the ranks of employees: Supervisors need the skills to more effectively deal with poor performing workers, to nurture the careers

of young and promising workers, and to keep veteran workers current in their skills. In addition, more training needs to be geared toward emerging problems so state agencies can better prepare and adapt to new challenges.

Training should not be viewed simply as a mechanism for dealing with under-performing employees. Training also needs to be viewed as a tool to raise the standard of performance for all employees.

One commentator believes training is most valuable when it is integrated: when the training is integrated with an organization's strategic plan and the training integrates the needs of the organization and the needs of the individual.[40]

❖ *Measure Benefits*

Most importantly, managers need to be able to measure the benefits of training so that they can make better decisions about when and how to make that investment. This information will be particularly important if the State is to resolve the chronic problem of cutting training budgets with the first sign of fiscal stress. The Governor's task force noted:

> *"Dollars invested in state work force training are returned to the taxpayers in the form of savings created by improved efficiency. Some experts estimate that the return on investment for training is as high as three dollars saved for every one dollar invested. We believe that, at a minimum, investments in training pay for themselves through subsequent efficiency improvements."*[41]

Still, it is easier to cut training than to lay off workers. But if training is a wise investment in good times, it is a wise investment in bad times. The issue is knowing which investments in training will yield quicker benefits, and which will provide long term benefits. With this information, policy makers and program managers will be better equipped to use training to achieve the efficiencies sought during hard times.

Education Yields Return

The Secretary of Labor's task force on excellence in government found that training can make the difference in bringing about change.

" In Madison, a city-wide quality improvement effort helped to improve a contentious relationship between city building inspectors and private electrical contractors. Management, the inspectors and contractors worked together to develop a compliance program that emphasized education over punishment. It led to a program that enhanced safety and conservation of resources. While cost reduction was not a goal of the effort, the training to implement the program reduced by 25 percent the number of inspections needed to complete a project. That efficiency improvement saves $30,000 a year – a more than 10-fold return on the cost of the training."

Training costs are not counted and reported uniformly. Some departments include lost staff time and travel in their cost computations, while others do not. Further there is an incentive to bury training costs in budgets to hide them from budget cuts.

Training is viewed as an earned benefit in some institutional settings. For example teachers and medical personnel can be awarded leave time for acquiring credentials, sabbaticals and continuing education. And the insecurity of training budgets has prompted some training proponents to argue that training should become an employee-funded benefit. While this approach would protect the training from cuts, there might be negative consequences if management "loses ownership" of training and has difficulties incorporating training in the collective bargaining process.

The Administration's training blueprint argues that the best way to budget training is to make it part of the department's strategic plan and allow it to be budgeted as part of the cost of implementing that strategic plan.

However, some concerns are raised by this approach. Training that yields quick benefits may be favored over training with greater but longer paybacks because department budgets are prepared annually and immediate improvements are easier to document and report.

Still, in the end, both investments will yield returns to the State, a dynamic enhanced by the stability of the workforce. The Governor's task force reported:

> *State employees tend to enter state service and remain public employees during the remainder of their career. Given the length of employment for most public sector employees, the ability to maximize employee performance can result in significant benefits to the people of California. For example a 1-percent improvement in the effectiveness of each employee is the equivalent of an addition of approximately 2,500 employees.*[42]

Summary

Significant progress has been made in identifying ways that the State can better coordinate training efforts and that departments can better use training to develop the personnel resources needed to reach their goals. In implementing those improvements the State needs to improve its efforts to evaluate and measure the benefits of training to provide policy makers with the information needed to make investment-based decisions in training.

PRINCIPLE FOR REFORM 11:

Fair, Efficient Discipline

The State needs a graduated disciplinary system that strives to resolve issues as early as possible, at the lowest level possible, and in ways that benefit both the employee and employer.

- ***Improve people management.*** *A traditional failing of state service is that small personnel problems become complicated discipline problems. Many of these issues can be resolved earlier by improving the skills of supervisors and mangers to deal with competence and behavioral problems.*

- ***Clarify venues.*** *Increasingly, the fractured personnel system is divided over how disciplinary appeals will be resolved and who will resolve them. The appeals process cannot be substantially improved until this issue is resolved.*

- ***Focus on outcomes.*** *The traditional system has developed elaborate procedures to ensure protections. Those protections have gone far beyond the need to insulate workers from political retribution and the procedures themselves prevent the swift and fair resolution of disputes that benefit employer and employee.*

❖ *Improve People Management*

While most state workers are never the subjects of formal discipline actions, how the State deals with poorly performing or misbehaving workers remains a system-wide controversy.

Historically, management's concern with the disciplinary process has rested with the long quasi-judicial appeals process. Fearful that formal discipline actions – adverse actions in state parlance – would be appealed to the State Personnel Board, managers reportedly shy away from taking any action at all. As a result, small problems fester into large ones. When actions are taken and appeals are filed, the departments and unions are saddled with high costs of the appeals process -- and as a result no one really wins.

Some changes are underway in an attempt to minimize the kinds of cases that can be appealed through the board's quasi-judicial process and to develop alternative means of resolving discipline-related disputes. For example, the State Personnel Board has instituted an "investigatory" appeal that involves an abbreviated hearing process for cases in which the parties or the administrative law judge believe the court-like hearing process is unnecessary. So far, the process is only available for managers and supervisors, but the board intends to publish regulations extending that process to rank-and-file workers.[43]

Exploring a Streamlined Process

The State Personnel Board has initiated a streamlined appeal process for resolving minor disciplinary appeals for excluded employees.

The process provides for a 3-hour hearing before an administrative law judge, with each side getting 90 minutes to present their side of the story. The hearing is not bound by the formal procedures of evidence and most of the case can be presented in writing.

The administrative law judge forwards a proposed decision to the board within 15 days, and the case must be closed within 90 days of it being opened. The ALJ or the two parties can opt out of the process if they believe it is in the interest of fairness to do so.

The State needs to continue to find ways to resolve disputes more quickly. But the State also needs to find ways to prevent simple management problems from turning into large personnel issues.

Some department personnel offices have developed specific training to help new supervisors learn how to deal directly with employees who are not meeting expectations. The training assumes that most professionals recruited into supervisory positions are expert in their subject area, but have little experience or training in managing other workers. The departments report that their assumption was correct, and they are seeing the benefits of the training in higher morale and fewer discipline actions.[44]

In particular, the training helps supervisors to diagnose problems, works on the skills necessary to clearly communicate with the worker, and makes them familiar with the solutions that can be used to remedy the problem. The personnel officers believe the training gives the supervisors confidence to deal with problems that they would otherwise avoid.

While most of the problems are cured for good, the personnel officers said supervisors also are trained on how to deal with recalcitrant employees who do not respond to corrective measures. By making supervisors familiar with the more formal discipline process, personnel officers believe supervisors will be more willing to initiate adverse actions in necessary situations.

❖ *Clarify Venues*

As with most issues concerning the State's personnel system, even the discussions about how to reform disciplinary policies have been complicated by the conflicting values and venues.

The issue – controversial by nature -- is burdened by an underlying tension. Under the merit system, crafting and administering discipline policy was a function of the State Personnel Board. Under the collective bargaining system, disciplinary policies, including grievance procedures, are often a "bargainable" issue.

In 1997 the Department of Personnel Administration negotiated a streamlined procedure for resolving minor disciplinary appeals with the bargaining unit that represents Highway Patrol officers. While similar provisions were rejected by other unions, the California Association of Highway Patrolmen said swift and fair discipline is a value shared by both management and labor, and labor trusted management that the new process would be fair, and not just swift. But of equal importance, the process was allowed by the State Personnel Board -- not because it could shape the policy, but because its administrative law judges will be the neutral party in the new process.

Conversely, in 1998, the Department of Personnel Administration negotiated streamlined procedures for resolving minor disciplinary appeals with the bargaining unit that represents firefighters with the California Department of Forestry and Fire Protection. In this case, the disputes will involve an independent mediator and be reviewed by a labor-management committee. In this case the State Personnel Board has indicated that it will sue DPA on the grounds that discipline is the jurisdiction of the board, and it has no role in the new process.

When the State Personnel Board fashioned a streamlined disciplinary appeals process, it limited it to excluded employees – not because those workers have an inherent different set of circumstances. Rather, the board recognized that the unions would quickly challenge a decision to administratively create a discipline process for rank-and-file workers. The SPB is now preparing to extend the same procedures to all civil servants, even though it anticipates being sued as quickly as the regulations are printed.

Regardless of who should establish and administer the discipline process, that decision is probably not one that is best left to the courts. The outcomes and the process should be cooperatively derived with the public's

interest in mind. The current path is for that policy to be derived through litigation, with history as a guide.

❖ *Focus on Outcomes*

Finally, in developing a discipline policy, the State should focus on the desired outcome. The desired outcome of the traditional merit-based process was to protect professionals from being fired for political retribution, or to make way for a patronage appointment. The procedures evolved significantly beyond that point – and to the point where the public now believes that incompetent civil servants cannot be fired.

The State still needs a way to resolve merit-related appeals to ensure the integrity of the merit principle. But more importantly, the State needs a graduated disciplinary system that resolves disputes as early as possible, at the lowest level possible, and in ways that benefit both the employer and the employee.

The system should focus on prevention first with effective intervention to correct inappropriate behavior or employee deficiencies. The process must have a swift, but fair way to resolve disputes of minor disciplinary actions. And it needs an efficient and binding process for resolving major adverse actions.

Summary

Discipline has been a more controversial issue than it should be, in large part because it has come to represent the tensions between labor and management, the merit system and collective bargaining. Clearly, the discipline appeals process has cost the State and the public more than it should. But even more money could potentially be saved by preventing discipline problems – with good selection, good training, good management.

Conclusion

Conclusion

No organization, public or private, charged with such important functions as keeping the peace, educating children, and protecting the environment would choose to operate under the morass of archaic and stifling rules that comprise the State's personnel system. It is unreasonable to expect state agencies operating under these rules to succeed.

In this report, the Little Hoover Commission presents principles for rebuilding the State's personnel system into one that would fairly and efficiently allow state agencies to pursue their missions with the necessary competence and alacrity.

The first two principles provide mechanisms for change: an Executive Council to establish common goals and nurture the reform efforts in individual departments; and, workplace-level committees, where through consensus, managers and rank-and-file workers can identify barriers to efficiency and effectiveness.

The remaining principles are guideposts, expressed in terms of desired outcomes, for reforming specific aspects of the personnel system. Among them are: the organizational structure of personnel-related agencies; the procedures used to recruit, examine and select new employees; and, the characteristics of a competence-based management corps.

Virtually all of the concepts embedded in these principles have been drawn from the lessons learned by others -- who in their communities and their states are stewards of the public interest. And conceptually, many of the should-be partners in California's government can agree to these general principles.

The duty before the State, the opportunity at hand, is to progress from conceptual principles to the workplace reforms.

Each year thousands of statutes are enacted and regulations are adopted. With increasing detail, these mandates and rules are intended to alter the course of government or improve its effectiveness.

Each year, the State adopts a budget, which provides the resources for these initiatives. The resources are allocated in the currencies of bureaucracies – fiscal year dollars and authorized positions.

But these time-honored mechanisms for steering and fueling public programs work in isolation from the duplicative oversight, the conflicting objectives, and the dysfunctional rules that control the ability of workers and managers to pursue legislated goals.

The 1990s have been a particularly challenging time for state departments. The decade has been characterized by rapidly growing and changing demands for public services, erratic funding for public programs, and vitriolic debates over the appropriateness and effectiveness of the policies that have defined government during the second half of this century. The ability of California state government to respond has been hobbled by unworkable personnel rules and bitter animosity between public employees and their employer.

Other state and local governments faced many of the same challenges as California. But they responded by developing a partnership between labor and management to creatively deliver the public services that the public needs. The leadership in these agencies – the leaders in labor and the leaders in management – have recognized that effectiveness cannot be legislated or dictated, and that ineffectiveness is not in their own interest or the public's.

The elected officials in these governments also have recognized that their agenda for change will only succeed if the executive branch agencies are capable of change themselves.

And that is where this issue transcends the civil service system or personnel procedures. It is why these reforms cannot be pursued unilaterally or isolated from the organizations that must live under these rules.

The purpose of civil service reforms is to improve the quality of public service. The lesson that California has learned in recent years is that civil service reform for the sake of civil service reform has little value or hope of fulfillment.

The purpose of reforms must be to improve public service. And the means must be cooperative -- because if those reforms are not embraced by the public servants who must perform the public's work, then they will inevitably fail.

Appendices

APPENDIX A

Little Hoover Commission Civil Service Advisory Committee

The following people served on Civil Service Advisory Committee. Under the Little Hoover Commission's process, advisory committee members provide expertise and information but do not vote on the final product.

Mr. David A. Abel
Chairman, L.A. Economy & Efficiency Commission

Mr. Ron Alvarado
Member, State Personnel Board

Mr. James Bailey
Orchard Springs Farm

Ms. Mary Ann Bailey
Governmental Affairs
Union of American Physicians & Dentists

Mr. Tim Behrens
President
California State Supervisors Association

Ms. Florence Bos
President, State Personnel Board

Ms. Debra Bouler
Office of Human Resources
Dept. of General Services

Ms. Susan Bowick
Senior Vice President
Corporate Personnel
Hewlett Packard

Assemblyman Larry Bowler
Vice Chair, Assembly Public Employees Committee

Mr. Jonathan Brock
University of Washington

Assemblymember Valerie Brown
Chair, Assembly Gov. Organization Committee

Ms. Linda Cabatic
Assistant Attorney General
Gov. Law Section, Dept. of Justice

Mr. Robert F. Carlson
Board Member
Public Employees' Retirement System

Mr. Richard Carpenter
Member, State Personnel Board

Dr. Jeff Chapman
Director of Sacramento Center
U.S.C., School of Public Administration

Ms. Pat Chappie
Chief,
Human Resource Services Division
Employment Development Dept.

Kathleen Connell
State Controller and Board Member
Public Employees' Retirement System

Ms. Dee Contreras
Director of Labor Relations
City of Sacramento

Ms. Diane Cummins
Chief Deputy Director
Department of Finance

Mr. John Curry
Chairman, Civil Service & Employment Committee
Veterans of Foreign Wars

Ms. Robin Dezember
Chief Deputy Director
Department of Finance

Senator Ralph Dills
Chair, Senate Gov. Organization Committee

Ms. Carol Ross Evans
Senior Vice President
California Taxpayers' Association

Mr. David Felderstein
Consultant, Senate Public Employ. & Retirement Committee

Mr. Michael Flaherman
Board Member
Public Employees' Retirement System

Matt Fong
State Treasurer and Board Member
Public Employees' Retirement System

Mr. William H Frye
Division of Management Services
Department of Water Resources

Mr. Ted Gaebler and Ms. Donna Hall

Assistant Chief Robert Giannoni
Personnel & Training Division
California Highway Patrol

Mr. Ron Glick
Director
Unit 12, Central Office, I.U.O.E.

Ms. Karen Green
Consultant, Assembly Public Employees Committee

Ms. Judy Guerrero
Director, Admin. Service Center
Department of Transportation

Mr. Jon Hamm
Executive Manager
Calif. Assoc. of Highway Patrolmen

Mr. Stephen M. Hardy
Consultant, Senate Gov. Organization Committee

Mr. Don Hayashida
Personnel Programs
Department of Justice

Mr. Walt Harris
Personnel Officer
Department of Industrial Relations

Ms. Joy Hempstead
Personnel Management Division
Dept. of Veterans Affairs

Ms. Elizabeth G. Hill
Legislative Analyst

Assemblyman Mike Honda
Chair, Assembly Public Employees Committee

Mr. Gerald James
Labor Relations Counsel
Assoc. of Calif. State Attorneys
Calif. Assoc. Of Professional Scientists
Professional Engineers in Calif. Gov't

Professor Cristy Jensen
Dept. of Public Policy and Administration
Calif. State University, Sacramento

Senator Betty Karnette
Vice Chair, Senate Public Employ. & Retirement Committee

Mr. Perry Kenny
President, California State Employees Association

Ms. Elisabeth K. Kersten
Director, Senate Office of Research

Secretary Joanne Kozberg
State & Consumer Services Agency

Ms. Wanda Lewis
President
Black Advocates in State Service

Mr. James Libonati
Assistant Deputy Director
Office of Personnel Management
Department of Corrections

Mr. Robert J. Losik
Sr. Labor Relations Representative
California State Supervisors, Inc.

Mr. Peter Lujan
Division Chief
Mediation & Conciliation Services
Department of Industrial Relations

Ms. Pam Manwiller
State Employee Coordinator
Union of American Physicians & Dentists

Assemblymember Bob Margett
Vice Chair, Assembly Gov. Organization Committee

Mr. Sam A. McCall
Chief Legal Counsel
Calif. Union of Safety Employees

Mr. Robert McKay
President, American Indian State Employees of Calif.

Mr. Oran McMichael
Director
A.F.S.C.M.E, AFL-CIO

Mr. Rick McWilliam
Chief of Labor Relations
Department of Personnel Administration

Mr. Larry Menth
Business Representative
Public Employees, I.U.O.E., Local 39

Mr. Dean Misczynski
Director
California Research Bureau

Ms. Laura Montgomery
Chief, Personnel Management Branch
Department of Health Services

Ms. Darlene Moser
Administrative Services Division
Franchise Tax Board

Mr. James D. Mosman
Chief Executive Officer
State Teachers' Retirement System

Mr. Mark Muscardini
President
Calif. Assoc. of Highway Patrolmen

Mr. Walter Norris
Director
Public Employees, I.U.O.E., Local 39

Mr. Chester Newland
Professor
USC School of Public Administration

Mr. Donald Novey
State President, Calif. Correctional Peace Officers Association

Ms. Chris O'Brien
Personnel Officer
Public Employees' Retirement System

Ms. Mary Philip
Asian Pacific State Employees' Assoc.

Ms. Linda Pinkerton
President, Calif. Association of Psychiatric Technicians

Mr. William J Popejoy
Director, Lottery Commission

Mr. Aaron Read
Aaron Read & Associates

Ms. Elise Rose
Chief Counsel, State Personnel Board

Mr. William Roseberg
Board Member
Public Employees' Retirement System

Senator Adam Schiff
Chair, Senate Public Employ. &
Retirement Comm.

Kurt Schuparra
C.S.E.A.

Mr. Garret Shean
Public Utilities Commission

Ms. Angela Sherrod
Director, Human Resources Agency
County of Sacramento

Mr. Kurato Shimado
Board Member
Public Employees' Retirement System

Mr. Fred Silva
Policy Analyst
Public Policy Institute

Mr. James M. Strock
Member
State Personnel Board

Mr. Arthur Terzakis
Consultant
Senate Gov. Organization Committee

Mr. Joseph A. Thomas
Board Member
Public Employees' Retirement System

Mr. Robert Thompson
Deputy General Counsel
Public Employment Relations Board

Mr. David J. Tirapelle
Director
Dept. of Personnel Administration

Mr. Charles P. Valdes
Vice President
Public Employees' Retirement System

Mr. James W. van Loben Sels
Director
Department of Transportation

Mr. Walter Vaughn
Executive Officer
State Personnel Board

Ms. Lorrie I. Ward
State Personnel Board

Dr. Robert Waste
Director, Graduate Program
Public Policy & Administration
Calif. State University, Sacramento

Mr. Morley Winograd
Director, National Partnership for
Reinventing Government

Mr. Kent Wong
UCLA Center for Labor Research and
Education

APPENDIX B

Witness Appearing at Little Hoover Commission Civil Service Public Hearing June 25, 1998 Sacramento

Jonathan Brock
Assoc. Professor of Public Policy
University of Washington

Chester A. Newland
Assoc. Professor of Public Policy
University of Southern California

Morley Winograd
Director, National Partnership for Reinventing Government

David J. Tirapelle
Director, Dept. of Personnel Administration

Walter Vaughn
Executive Officer
State Personnel Board

Tim Behrens,
President
Association of California State Supervisors

Jon Hamm
Executive Manager
California Assoc. of Highway Patrolmen

Perry Kenny
President
California State Employees' Association

Debra Bouler
Office of Human Resources
Department of General Services

Endnotes

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LITTLE HOOVER COMMISSION MEMBERS

CHAIRMAN RICHARD R. TERZIAN *(R-Los Angeles)* Originally appointed to the Commission by Governor George Deukmejian in May 1986. Reappointed by Governor Pete Wilson in March 1994 and in March 1998. Partner in the law firm of LeBoeuf, Lamb, Greene & MacRae. Chairman of the Commission since March 1994. Served as Vice-Chairman from 1992 to 1994.

VICE CHAIR MICHAEL E. ALPERT *(D-Coronado)* Originally appointed to the Little Hoover Commission by Assembly Speaker Willie L. Brown, Jr. in May 1994. Reappointed by the Senate Rules Committee in August 1997. Retired partner in the law firm of Gibson, Dunn & Crutcher. Former Chief Deputy Commissioner of the California Department of Corporations.

CARL COVITZ *(R-Los Angeles)* Appointed to the Little Hoover Commission by Governor Pete Wilson in October 1993. Reappointed in March 1996. Owner and President of Landmark Capital, Inc. Served as Secretary of the Business, Transportation and Housing Agency from 1991 to 1993 and Undersecretary for the U.S. Department of Housing and Urban Development from 1987 to 1989.

DANIEL W. HANCOCK *(D-Milpitas)* Appointed to the Commission by Assembly Speaker Cruz Bustamante in July 1997. President of Shapell Industries of Northern California since 1985.

ASSEMBLYMEMBER SALLY HAVICE *(D-Cerritos)* Appointed to the Little Hoover Commission by Assembly Speaker Antonio Villaraigosa on April 2, 1998. Elected to the State Assembly for the 56th District in November 1996. Chair of the Assembly International Trade & Development Committee and the Assembly Select Committee on School Safety.

GARY H. HUNT *(R-Corona del Mar)* Appointed to the Commission by Governor Pete Wilson in March 1998. Executive vice president of corporate affairs and administration for The Irvine Company.

GWEN MOORE *(D-Los Angeles)* First appointed as a legislative member to the Little Hoover Commission by Assembly Speaker Willie L. Brown, Jr. in October 1984. Appointed as a public member by Brown in May 1995. Founder and Chief Executive Officer of GeM Communications Group. Member of the California State Assembly from 1978 to 1994.

ANGIE PAPADAKIS *(R-Rancho Palos Verdes)* Originally appointed to the Little Hoover Commission by Governor George Deukmejian in August 1990. Reappointed by Governor Pete Wilson in March 1996. Former President of Papadakis Advertising. Serves on the California-Nevada Super Speed Train Commission

SENATOR JOHN VASCONCELLOS *(D-Santa Clara)* Appointed to the Little Hoover Commission by the Senate Rules Committee in February 1997. Elected to the State Senate in 1996. Chairs the Senate Public Safety Committee and the Select Committee on Economic Development.

SEAN WALSH *(R-Sacramento)* Appointed to the Little Hoover Commission by Governor Pete Wilson in January 1999. Former Deputy Chief of Staff and Press Secretary for Governor Wilson, 1995 to 1999. Also served as Assistant Press Secretary and Director of Press Office Operations for President George Bush from 1989 to 1993.

STANLEY R. ZAX *(I-Beverly Hills)* Appointed to the Little Hoover Commission by the Senate Rules Committee in March 1994. Reappointed in January 1998. Chairman and President of Zenith Insurance Company.

"Democracy itself is a process of change, and satisfaction and complacency are enemies of good government."

Governor Edmund G. "Pat" Brown,
addressing the inaugural meeting of the Little Hoover Commission,
April 24, 1962, Sacramento, California

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