

## **CIVIL SERVICE REFORM**

### **Past as Prologue?**

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Civil service systems have traditionally undergirded public management structures in the United States. Job security, protection from outside political influence, and a solid and progressive career ladder were once universal expectations for public servants. In most, if not all cases, these expectations were a direct benefit of civil service protections. However, civil service protections in many jurisdictions have eroded. The intention of civil service was to create a cadre of career public servants who would be protected from undue political influence in the management of the public's business. In essence, civil service systems would assist in the creation of a "neutrally competent" bureaucracy. As with all public policy, the creation of civil service systems has resulted in unintended consequences. In some cases, it has resulted in insulated and isolated bureaucratic actors who are seemingly unresponsive to the legitimate demands of elected leaders. As a direct reaction to this phenomenon, civil service systems have been under sustained attack by elected and appointed officials for the past two decades. Thus, the history of civil service and civil service reform can be defined by the competing and sometimes mutually exclusive demands of neutral competence and political responsiveness.

This chapter explores the contemporary state of civil service reform in the United States. As discussed here, broad-based civil service reform aims to fundamentally change the nature of the public service. The chapter begins with a brief history of the foundations and evolution of merit-based civil service. The chapter then focuses on specific cases. The first two cases spotlight civil service reforms in the American states, with a particular emphasis on Georgia and Florida and their recent move to abolish or significantly alter civil service protections for state employees. The chapter then highlights the case of Jefferson County, Alabama, and that jurisdiction's efforts to modernize its civil service system under the watchful eye of a federal judge. The fourth case focuses on the U.S. Department of Homeland Security and its dabbling with different reform initiatives. The chapter concludes with a set of implications for the future of civil service in the United States.

### **CIVIL SERVICE AND PUBLIC MANAGEMENT**

Ever since the passage of the Pendleton Act of 1883, governments have struggled with the need for a neutrally competent bureaucracy and the simultaneous need for the same bureaucratic actors to be responsive to the needs of political and appointed officials as the conduit of the public will (see chapter 2, "The Profession of Public Administration: Promise, Problems, and Prospects," in this volume). The Pendleton Act sought to minimize the use of spoils as the basis for the system by replacing it

with other values such as merit, protectionism, and political neutrality. The Civil Service Reform Act of 1978 modified structural characteristics of the system by creating the Office of Personnel Management, the Merit System Protection Board, and the Federal Labor Relations Authority in place of the abolished U.S. Civil Service Commission. Other reforms have been less sweeping and more incremental in nature. Civil service reform occurs at the state and local levels as well.

As suggested previously, constant, persistent tension between neutral competency and political responsiveness has been the defining theme in the civil service literature. Kellough and Nigro state it well: “The challenge has always been to find a way to temper the control and flexibility that are required with appropriate levels of protection for public employees” (2006, 2). Van Riper (1958) and Schultz and Maranto (1998) trace the history of the federal civil service in the United States. Condrey and Maranto (2001) examine the trend at all levels of government to dilute the once sacred civil service value of employee job protection from undue political influence. This move to “radical reform” of civil service systems is occurring not only in the federal government but in state and local governments as well. These “reforms” are in direct reaction to the reforms of 1883 and the subsequent diffusion and strengthening of civil service protections throughout the last century. Radical reform, in the vein of new public management,<sup>1</sup> seeks to “let managers manage,” unfettered by the constraints of civil service protections.

Proponents of radical reform contend that a nineteenth-century solution to the problems of spoils politics and inefficiency is indeed insufficient to address the complex problems that face public bureaucracies in the early twenty-first century. Hence the issue, much as Mosher (1968) posited forty years ago: How can civil service systems be designed that yield a professional workforce that is protected from elective and managerial abuse while allowing elected and appointed officials to exercise sufficient power over bureaucratic actors and actions? The following four cases—two from state government and one each from local and federal governments—address this enduring problem in a different fashion and thus make excellent examples to explore the complexity and promise of civil service reform.

## STATE OF GEORGIA

The term *radical reform* has become almost synonymous with the state of Georgia. Georgia was “ground zero” for radical civil service reform. In 1996, then governor Zell Miller successfully sought passage of legislation that abolished civil service protections for state employees hired after July 1, 1996. The bill also contained a provision that would remove civil service protections from employees as they accepted promotions within the state, thus becoming “at will.” By early 2008, almost 83 percent of the state’s 80,313 employees were considered “unclassified” or “at will” (see Table 21.1).

The Georgia experience has been described as a perfect storm when it comes to radical reform (Condrey 2002). Georgia has long been a right-to-work state with weak public employee unions. Also, Governor Miller had done his homework—he had the state’s legislative and bureaucratic leadership on his side as well as strong editorial support from the state’s largest-circulation newspaper. Furthermore, the State Merit System (essentially the state’s personnel agency) had a reputation as a rule-bound bureaucracy, more inclined to serve its own interests than those of the agencies it represented.

J. Edward Kellough and Lloyd Nigro note that the 1996 Georgia reform also decentralized human resources management, removing it from a central personnel agency and diffusing the responsibility to the various departments. The authors note that such an arrangement was “along lines suggested by influential reform groups, such as the Winter Commission (1993) and the

Table 21.1

**Percentage of Unclassified Versus Classified Employees, State of Georgia, 1999–2008**

December 31	Classified		Unclassified		Total
	Number	Percentage of total	Number	Percentage of total	
1999	39,716	51.34	37,641	48.66	77,357
2000	34,906	44.78	43,047	55.22	77,953
2001	31,132	39.08	48,524	60.92	79,656
2002	28,116	34.49	53,393	65.51	81,509
2003	25,349	31.37	55,465	68.63	80,814
2004	22,445	27.88	58,068	72.12	80,513
2005	19,861	24.30	61,877	75.70	81,738
2006*	17,830	21.67	64,452	78.33	82,282
2007*	15,769	19.22	66,266	80.78	82,035
2008*	13,818	17.21	66,495	82.79	80,313

*Source:* Georgia State Merit System (personal correspondence, March 13, 2009).

*Note:* Headcount totals for full-time equivalent full-time employees for each year were pulled as available from PeopleSoft HR System as they existed on March 11, 2009. For purposes of consistency from year to year, FTE employees are defined as all regular, benefit-eligible employees on nontemporary pay plans.

\*Records for 2006 and forward are under current review by state personnel as some may have been affected by the most recent PeopleSoft upgrade.

federal National Performance Review”<sup>2</sup> (Kellough and Nigro 2006, 118). Thus, civil service in Georgia had sustained a two-pronged attack—it had lost its ability to serve as a protector of merit and also as a central organizing mechanism for human resources in the state. What has been the result of these reforms? Did they live up to the promise anticipated by supporters? The Kellough and Nigro (2006) survey of state of Georgia employees points to the “long-term consequences of human resources policy and management in the state.” They describe any perceived performance improvement resulting from the reforms as “marginal” (142). Battaglio and Condrey (2009) also surveyed Georgia human resources professionals, who are in a unique position to view civil service reforms and assess their broader impact beyond more than just one or more specific cases. The Battaglio and Condrey survey reinforces Kellough and Nigro’s findings. The more salient results of the survey are shown in Tables 21.2 and 21.3.

Table 21.2 displays human resources professionals’ experience with employment-at-will. As such, it concentrates on the “proper” or intended use of employment at will—keeping the workforce aligned with strategic objectives. Almost half of the respondents indicate that at-will employment has been used to (a) trim workforces to keep them in line with overarching managerial objectives (41 percent), (b) meet agency budget shortfalls (46 percent), and (c) achieve downsizing targets (47 percent). While it is a normative statement that these are desirable uses, they are, nonetheless, part of the intended reforms that the Winter Commission and others have espoused over the past several decades. It is also in keeping with the neomanagerialist philosophy of new public management (Bowman and West 2007b).

Just as proponents of at-will and decentralized employment tout its managerial advantages, opponents warn that its misuse can have serious adverse consequences for public organizations. Table 21.3 sheds light on these possibilities in the context of the Georgia reforms.

Table 21.3 reports that almost one-third (30 percent) of responding Georgia human resources professionals believed that at-will employment is used in some instances to fire competent em-

Table 21.2

**Georgia Human Resources Professionals' Experience with Misuse of Employment-at-Will**

	Percentage Who Agree/Disagree	Mean
EAW is sometimes used to fire competent employees so other people with friends or connections to government can be hired	30.2/49.5	2.61
I know of a case where a competent employee was fired at-will so that another person with friends or connections to government could be hired	10.3/74.1	1.91
Employees have been terminated at-will because of personality conflicts with management	32.4/46.7	2.71

**Cronbach's Alpha = .802***Source:* Battaglio and Condrey 2009.

*Note:* Respondents were asked to indicate their agreement or disagreement with survey statements related to employment at-will using the following scale: 1 = "Strongly Disagree"; 2 = "Disagree"; 3 = "Neither Agree/Disagree"; 4 = "Agree"; and 5 = "Strongly Agree." Percentages reported in the table do not sum to 100 percent due to rounding and omission of "Neither Agree/Disagree" responses.

Table 21.3

**Georgia Human Resources Professionals' Experience with Employment-at-Will**

	Percentage Who Agree/Disagree	Mean
Employees have been terminated at-will because of changing managerial priorities/objectives	40.7/35.0	3.02
Employees have been terminated at-will in order to meet agency budget shortfalls	46.0/37.2	3.09
Employees have been terminated at-will in order to meet agency downsizing goals	47.3/35.9	3.14

**Cronbach's Alpha = .842***Source:* Battaglio and Condrey 2009.

*Note:* Respondents were asked to indicate their agreement or disagreement with survey statements related to employment at-will using the following scale: 1 = "Strongly Disagree"; 2 = "Disagree"; 3 = "Neither Agree/Disagree"; 4 = "Agree"; and 5 = "Strongly Agree." Percentages reported in the table do not sum to 100 percent due to rounding and omission of "Neither Agree/Disagree" responses.

ployees so that people with friends or political connections can be employed, with 10 percent able to name a specific case of such an incidence. Thus, the return of spoils politics to employment in Georgia appears to have been aided by the 1996 "reforms." Furthermore, while civil service was intended to thwart the influence of electoral politics in the workplace, it also had the effect of protecting employees from the damaging effect of personality conflicts with management. A perhaps unintended consequence of the Georgia reform is that almost one-third (32 percent) of the responding human resources professionals know of a case where an employee had been terminated at will because of "personality conflicts with management."

These findings bring into question whether an at-will, decentralized employment environment can foster an open and trusting environment that is essential to a healthy workplace. Battaglio and Condrey's findings suggest just the opposite through the use of ordered logistic regression of the impact of employment-at-will experience on organizational trust: "The study findings indicate that EAW [employment-at-will] systems may have a fundamental flaw in that they may undermine trusting workplace relationships necessary for effective public management" (2009, 689). Implementation of reformers' objectives in Georgia was more complex than originally envisioned and appears to have fostered adverse unintended consequences.

## STATE OF FLORIDA

Five years after Georgia instituted its 1996 reforms, then governor Jeb Bush of Florida declared his intent to modify the state's civil service system, shifting emphasis from "protection to performance." Promising businesslike efficiency gains, despite the absence of convincing data of inefficiency (e.g., showing that poor performance results when state workers are protected from arbitrary management decisions), the governor favored a private sector approach to personnel practices that would cut costs, improve productivity, and enhance flexibility. He thought change was needed to relieve managers from cumbersome, stultifying personnel policies and thereby afford them more discretion to improve government performance.

In addition to Governor Bush, the main advocates for the reforms were Florida business leaders (Council of 100), Republican state legislators, and taxpayer groups. Public employees, unions, Democratic legislators, appointees (e.g., "the efficiency czar"), and a special master (a labor mediator mandated by Florida law to provide advice to lawmakers when collective negotiations reach an impasse) opposed the reform initiatives (see West and Bowman 2004 for discussion of stakeholders and their interests). Editorial opinions in the state's largest newspapers were divided. The public was largely uninformed and at best offered tepid support to reform. Ultimately, the bill was approved quickly in the Republican-controlled House of Representatives on a party-line vote and the state Senate passed it along party lines as well. Service First was signed into law in May 2001.

While the new legislation modified the state's classification and compensation system by simplifying job titles and pay (broadbanding)<sup>3</sup> and eliminated the notion of seniority throughout the state personnel system (except for police, fire, and nurses), the most sweeping reform was the conversion of sixteen thousand supervisory positions in the state employment system to at-will status. This case deals primarily with the most contentious feature of reform: removal of civil service job protections in state government and implementation of at-will employment (for a discussion of other elements in Service First, see West 2002; Walters 2002; and Bowman, West, and Gertz 2006).

One year after the implementation of Service First, James Bowman and his colleagues (2003) surveyed state employees whose jobs were converted from Florida's tenured Career Service to unprotected Selected Exempt Service. General findings suggested that many in the Selected Exempt Service group lacked complete information about the law's provisions, and characterized the reform as a move to downsize government and enhance managerial discretion. Respondents were skeptical that the law would enhance hiring processes or responsiveness, and nearly half contended that the reform would lead to reduced productivity.

In 2006, West and Bowman surveyed Florida human resources professionals. Their research paralleled that of Battaglio and Condrey (2009) in that they viewed human resources managers as pivotal in assessing the impact of reforms. The 2005 survey findings confirmed many observations

made by Bowman and his colleagues after the first year of operation under Service First, and they are very similar to the findings from Georgia.

Table 21.4 reports Florida human resources professionals' experience with employment at will. Replicas of the questions in the Georgia survey were used in Florida; the focus is on the strategic purpose behind the use of at-will employment. Half of the respondents indicated that at-will employment is used to meet agency downsizing goals, with fewer agreeing that it is used to implement managerial priorities (43.8 percent) and meet agency budget shortfalls (41.3 percent). Here again, findings indicate alignment between managerial strategy and employment at will: These results closely mirror the Georgia survey findings and are consistent with new public management philosophy, the Winter Commission recommendations, and some of the promises made by reform proponents (Bowman and West 2008).

While these purported advantages associated with at-will employment are voiced by reformers seeking to enhance managerial discretion and flexibility, opponents fear the adverse consequences from potential abuse of such discretion, so evident historically during the spoils era.<sup>4</sup> Table 21.5 highlights the concerns in the Florida setting.

Table 21.5 examines misuse of at-will employment. Florida's human resources professionals are less likely than Georgia managers to identify instances where employment at will has been used to fire competent employees so other people with friends or connections to government can be hired (18.8 percent). Nonetheless, nearly one in five Florida human resources professionals report knowledge of spoilslike termination decisions and, as in Georgia, one in ten has firsthand knowledge of such a case. Findings from Florida are also similar to those in Georgia in that nearly three out of ten human resources professionals know of employees who have been terminated at will because of personality conflicts with management. These findings suggest the Janus face of at-will employment and the complexity of implementing the concept without negative consequences (see West and Bowman 2006; Bowman and West 2007a).

In an attempt to validate the perceptions of human resources professionals and compare them with others, Bowman and West (2007b) conducted semistructured telephone interviews with more than fifty staff members who converted from Florida's Career Service to Selected Exempt Service in the central and district Departments of Transportation, Environmental Protection, and Children and Families and eight human resources managers in these departments. Not surprisingly, the views of the human resources professionals tended to be more sanguine regarding the purpose and impact of Service First than were those whose status had been converted to Selected Exempt Service, who would be losing their job protection. Human resources professionals in these three departments saw the key purposes of Service First as providing greater managerial flexibility, discretion, and benefits, and as coinciding with the governor's intent to "refresh" the workforce and push for privatization. They cite improvements in timely recruitment but acknowledge mixed results on employee morale and loyalty. They opine that political accountability and responsiveness are largely unchanged. In general, they had mixed views on whether Service First represented a successful application of the business model to government and on whether employees were viewed more as a cost than an asset.

Table 21.6 reports in summary form the results of interviews with those employees converted from Career Service to Selected Exempt Service in these Florida departments. This group is more critical or guarded in their assessments of Service First. They more frequently cite the negative effects of the reform measures with respect to the reform goals themselves and the impacts on recruitment, morale and loyalty, pay, nonpartisan service, and public sector employment appeal. They think that public employees are more frequently thought of as a cost to be borne rather than an asset deserving of investment and that the application of the business

Table 21.4

**Florida Human Resources Professionals' Experience with Employment-at-Will**

	Percentage Who Agree/Disagree	Mean
EAW is sometimes used to fire competent employees so other people with friends or connections to government can be hired	18.8/51.6	2.38
I know of a case where a competent employee was fired at-will so that another person with friends or connections to government could be hired	11.1/76.2	1.87
Employees have been terminated at-will because of personality conflicts with management	29.7/48.4	2.64

**Cronbach's Alpha = .950***Source:* West and Bowman 2006.

*Note:* Respondents were asked to indicate their agreement or disagreement with survey statements related to employment at-will using the following scale: 1 = "Strongly Disagree"; 2 = "Disagree"; 3 = "Neither Agree/Disagree"; 4 = "Agree"; and 5 = "Strongly Agree." Percentages reported in the table do not sum to 100 percent due to rounding and omission of "Neither Agree/Disagree" responses.

Table 21.5

**Florida Human Resources Professionals' Experience Use of At-Will Employment**

	Percentage Who Agree/Disagree	Mean
Employees have been terminated at-will because of changing managerial priorities/ objectives	43.8/28.1	3.13
Employees have been terminated at-will in order to meet agency budget shortfalls	41.3/42.9	3.00
Employees have been terminated at-will in order to meet agency downsizing goals	50.8/31.8	3.25

**Cronbach's Alpha = .963***Source:* West and Bowman 2006.

*Note:* Respondents were asked to indicate their agreement or disagreement with survey statements related to employment at-will using the following scale: 1 = "Strongly Disagree"; 2 = "Disagree"; 3 = "Neither Agree/Disagree"; 4 = "Agree"; and 5 = "Strongly Agree." Percentages reported in the table do not sum to 100 percent due to rounding and omission of "Neither Agree/Disagree" responses.

model to government was unsuccessful. They more frequently identify "no change" resulting from Service First when it comes to service provision, responsiveness, and productivity. Thus, while Florida has undertaken "radical" reform, the results on balance are mixed at best, with the preponderance of opinion being negative among those most directly affected. Reformers in other states are cautioned that patterning their reforms on the Florida experience may not yield the desired results they envision (see Bowman 2002). Lessons from Florida suggest the need for careful consideration of the pros and especially the cons of reform in advance of dismantling civil service protection.

Table 21.6

**Predominant Views on Service First (n = 51 SES officials)**

Reform dimension	Department of Transportation			Department of Environmental Protection			Department of Children and Families		
	Positive	Negative	No change	Positive	Negative	No change	Positive	Negative	No change
Reform goals	X	X			X			X	
Recruitment			X		X			X	X
Service provision			X			X		X	X
Responsiveness			X		X	X	X		X
Productivity			X			X	X		X
Morale and loyalty		X			X			X	
Pay		X			X	X		X	
Nonpartisan service		X			X			X	
Employment appeal		X			X			X	
Cost or asset		Cost			Cost			Cost	
Business model		Unsuccessful			Unsuccessful			Unsuccessful	

Source: Adapted from Bowman and West (2007b).

## DIFFUSION TO OTHER STATES

Has Georgia and Florida's decentralized, at-will approach diffused to other states? The most recent study of this phenomenon was conducted by Steve Hays and Jessica Sowa (2006). This comprehensive survey of the fifty states examines human resources practices related to the expansion of at-will employment, the diminution of employee rights, and the decentralization of the state personnel function. Table 21.7 displays a summary of the Hays and Sowa findings. The results of the survey are astounding and signal that a quiet revolution related to civil service reform is in full motion in the American states. The survey reveals that only eight of the fifty states (16 percent) retain a fully centralized personnel system; twenty-eight of fifty (56 percent) report an expansion of at-will employment; and thirty-one of fifty (62 percent) report a "decline in job security."

Hays and Sowa characterize the above findings as "sobering" (112) because reform initiatives were much more common than expected. Following are several examples of comments from the state personnel officials interviewed in each state:

- "Our perception of job security has changed drastically in the last five years. The politicians want us to 'do more with less.' Soon we'll be 'doing everything with nothing.'" (Minnesota)
- "The uncovering of positions is being done quietly. Old notions of job security are changing. We've seen more and more agency heads come in from the private sector bringing the private sector mentality. They're much more inclined to terminate workers. As the older generation of career employees retires, they're being replaced by outsiders with a different—almost antigovernment—attitude." (Vermont)
- "Politicians in the state continually argue that the merit system hinders performance and efficiency. It [the merit system] is probably doomed." (Nebraska)
- "There is no longer any such thing as job security. 'Just cause' dismissals are seriously threatened." (Rhode Island) (Hays and Sowa 2006, 14–15)

There is little question that civil service reform has spread among the American states. Bowman and West (2007b) believe that these reforms have been driven by a blind trust in the private sector model and its supposed easy transfer to public sector organizations, something they term a "powerful illusion" (142). It remains, however, unclear whether the at-will, decentralization movement that started in Georgia will continue to diffuse among the states. The financial meltdown of Wall Street and recession of 2008–10 have most probably diminished the luster of applying private sector models to public agencies. Furthermore, the private sector fervor may be tempered by the call to public service that President Obama has put forward.

While no crystal ball is in hand, it is a safe bet that the Georgia and Florida experiences with at-will, decentralized human resources management will continue to influence the field. We turn next to an example of how a civil service system was rebuilt, rather than abolished.

### PERSONNEL BOARD OF JEFFERSON COUNTY, ALABAMA

Founded in 1935, the Personnel Board of Jefferson County, Alabama, is an example of a traditional, centralized civil service system. The agency is administered by a three-member board that is appointed by a citizen's panel; members of the board may hold elective office. The Personnel Board administers the hiring and compensation programs for the city of Birmingham, Jefferson County, Jefferson County Health Department, and approximately nineteen other cities within Jefferson County. By design, the Personnel Board seeks to separate political influence from the hiring and

Table 21.7

**General Summary of Interview Findings: Snapshot of Current Conditions in the States' Personnel Systems**

State	Level of Human Resources Decentralization	Expansion of At-Will Employees	Range of Grievable Issues	Activist Governor	"Decline in Job Security"
Alabama	Partial	No	Agency specific	No	Yes
Alaska	Centralized	No	Restricted	Yes	No
Arizona	Partial	Yes	Restricted	Yes	Yes
Arkansas	Significant	Yes	Restricted, agency specific	No	Yes
California	Partial	No	Expansive	Yes	Yes
Colorado	Significant	Yes	Restricted	Yes	Yes
Connecticut	Partial	No	Expansive	No	No
Delaware	Partial	Yes	Expansive	No	No
Florida	Significant	Yes	Restricted	Yes	Yes
Georgia	Significant	Yes	Restricted	No	Yes
Hawaii	Centralized	No	Expansive	No	No
Idaho	Partial	Yes	Agency specific	No	Yes
Illinois	Partial	No	Expansive	No	Yes
Indiana	Recentralizing	Yes	Restrictive	Yes	Yes
Iowa	Significant	Yes	Expansive	No	No
Kansas	Significant	Yes	Expansive, agency specific	Yes	Yes
Kentucky	Centralized	Yes	Expansive	Yes	No
Louisiana	Partial	No	Restricted	No	Yes
Maine	Recentralizing	No	Expansive	Yes	Yes
Maryland	Partial	No	Expansive	No	No
Massachusetts	Partial	Yes	Expansive	Yes	Yes
Michigan	Partial	No	Expansive	No	Yes
Minnesota	Partial	No	Expansive	No	Yes
Mississippi	Partial	Yes	Restricted	Yes	Yes
Missouri	Significant	Yes	Agency specific	Yes	Yes
Montana	Partial	No	Restricted	No	No
Nebraska	Centralized	Yes	Restricted	No	Yes
Nevada	Partial	No	Expansive	No	No
New Hampshire	Partial	No	Expansive	No	No
New Jersey	Partial	Yes	Expansive	No	Yes
New Mexico	Centralized	No	Expansive	No	No
New York	Partial	No	Expansive	No	No
North Carolina	Significant	Yes	Restricted	No	Yes
North Dakota	Significant	No	Restricted	No	No
Ohio	Partial	Yes	Restricted	No	No
Oklahoma	Significant	Yes	Restricted	No	Yes
Oregon	Partial	Yes	Expansive	Yes	Yes
Pennsylvania	Significant	No	Expansive	No	No
Rhode Island	Centralized	Yes	Expansive, but not utilized	Yes	Yes
South Carolina	Significant	Yes	Restricted	No	Yes
South Dakota	Centralized	No	Expansive	No	No
Tennessee	Centralized	No	Restricted	No	No
Texas	Complete	Yes	Not applicable	No	Yes
Utah	Partial	Yes	Expansive	Yes	No
Vermont	Significant	Yes	Restricted	Yes	Yes
Virginia	Significant	No	Restricted	No	Yes
Washington	Significant	Yes	Restricted	Yes	Yes
West Virginia	Partial	Yes	Restricted	Yes	Yes
Wisconsin	Partial	No	Expansive	Yes	Yes
Wyoming	Partial	Yes	Restricted	No	No

Source: Hays and Sowa 2006.

discipline of employees of its member jurisdictions. In practice, it has been a lightning rod for political intrigue, lawsuits, and controversy extending over the past five decades.

As the protector of “merit,” the Personnel Board has designed tests for initial employment and promotion within its covered jurisdictions. The NAACP along with other parties sued the Personnel Board in the 1970s over its employment practices, which it deemed discriminatory and in violation of the Equal Employment Opportunity Act of 1972. A consent decree was entered into in 1981, with the agency charged with improving its employment practices and creating nondiscriminatory selection instruments (Battaglio and Condrey 2007).

However, this was to be a long rather than a short story, with various suits and countersuits claiming both discrimination and reverse discrimination. In 2002, the presiding federal court judge found the Personnel Board in contempt of court and appointed a receiver to serve as the sole board member and administrator of the Personnel Board. This is the only instance that could be documented of a federal court placing a personnel system under receivership (Battaglio and Condrey 2007; Sims 2009).

The receiver, Dr. Ronald Sims, a management professor at the College of William and Mary, states that the long history of federal reporting and oversight had become standard operating procedure with the Personnel Board, but unacceptable to the federal judge in charge of monitoring the consent decree: “While the former leadership of the PBJC [Personnel Board of Jefferson County] may have viewed this situation as tolerable, the federal court clearly did not” (Sims 2009). Additionally, the legal costs for the Personnel Board alone exceeded \$10 million, an amount that presiding U.S. District Court Judge Lynwood Smith described as “staggering and mounting by the hour” (Stock 2008, 1A). These fees were eventually negotiated to about one-quarter of that amount (Stock 2009, 2B) but demonstrate the long and involved legal battle all parties endured.

As receiver, Sims was given extraordinary power by the court to design an effective system of human resources management. Here the emphasis was on strengthening testing, classification, and compensation, and the underlying information technology system. This is in contrast to Georgia and Florida, where the emphasis was on decentralization and lending more power and influence to management. Sims found an agency mired in the past with little human or electronic infrastructure to carry out its task to administer the human resources system for more than twelve thousand employees: “The staff was generally not computer literate. Few desktop computers existed in the organization. In short, the Receiver believed that the lack of infrastructure contributed to PBJC’s [the Personnel Board’s] struggling to execute its basic statutory responsibilities” (Sims 2009). Following is a partial listing of Sims’ accomplishments as the court’s receiver:

- Conducted a classification and compensation study
- Assessed the skills of Personnel Board staff, replacing and retraining as deemed appropriate
- Engaged a skilled consultant to revamp public safety hiring procedures
- Recruited a professional examination development team
- Instituted professional development activities for Personnel Board staff
- Revised the organization’s rules and regulations
- Renovated the physical offices of the Personnel Board
- Implemented a state-of-the-art human resources information system (Sims 2009)

As a result of Sims’ promising efforts, the Personnel Board was released from court supervision in November 2008 (Walton and Stock 2008).

Riccucci and Naff state that the structural arrangement the Personnel Board utilizes is contrary

to the trend for other local government organizations. The two authors note similar trends for local governments comparable to what was discussed earlier for the states: "Put simply, independent agencies of a regulatory nature were having great difficulty in serving the needs of elected executives and public managers. They became viewed as obstacles to efficiency and effectiveness and were often seen as unduly influenced by pressure groups" (2008, 38).

So what is the final result of the court-ordered modernization of the Personnel Board of Jefferson County, Alabama? Can a revamped 1935 civil service system that isolates human resource policy decisions from management and elected leaders be effective in the twenty-first century? The jury is still out, but the Personnel Board is in fact better able to serve its clients than it was prior to receivership. However, problems still exist concerning complex relationships with the elected leadership of the jurisdictions it serves. The mayor of Birmingham has been engaged in an ongoing struggle with the Personnel Board over the hiring of a public works director, and Jefferson County continues to seek release from court supervision. Is the Personnel Board simply a rebuilt 1935 Cadillac ready for action in today's fast-paced human resources management environment?

To put this case in perspective, the 1935 act establishing the Personnel Board was an attempt to modernize and professionalize government from the bottom up. It is a logical conclusion that the civil service system was established to help create a professional workforce for these governmental bodies. However, one can speculate about what would have been the result if the 1935 legislation had instead dealt with the top of the organization—an approach that would have created or encouraged city and county manager forms of government—and in turn whether this would have led to the increased professionalization of the respective workforces. Because the city and county lacked professional top-level leadership, the civil service system became a way to protect employees from the vagaries of the various elected officials that would occupy offices of power. However, civil service protection alone has done little to provide the city of Birmingham and Jefferson County citizens with healthy and functioning governments. As of this writing, the mayor of Birmingham (who was formerly the county commission chair) has been convicted in federal court on sixty counts of bribery, four former county commissioners have been convicted of accepting bribes, and the county faces possible bankruptcy over sewer bond payments (Hubbard 2009, 1; Wright 2009, 1).

## **DEPARTMENT OF HOMELAND SECURITY**

The federal government's Department of Homeland Security is another interesting example of civil service reform. The tragic and traumatic events of September 11, 2001, gave rise to the largest reorganization of the federal government since World War II with the creation of the Department of Homeland Security (DHS). Kingdon (1995) describes such periods of time as a "policy window," an unusual convergence of circumstances and ideas allowing for a major policy shift. As Stivers and Hummel note, "Change through crisis has been an ongoing theme in American government. In a system designed to move hesitantly and incrementally, emergencies, not grand theory, are what often spark the energy for significant action" (2007, 1011).

Part of the Bush reorganization plan for DHS was a lessening of civil service rules allowing for more flexibility with labor relations, compensation, and a denial of property rights to some employees of the newly formed agency, namely those employees of the Transportation Security Administration (Naff and Newman 2004; Underhill and Oman 2007).

Kay Coles James, Office of Personnel Management director under the second President Bush, outlined the proposed DHS reforms in congressional testimony:

- A pay-for-performance system in which high performance is expected and rewarded, to an extent not permitted under the General Schedule; that streamlines and modernizes job classifications and pay levels; and that takes into account both national and local rates paid by employees in the private sector in setting pay for the Department's key occupational groups.
- A labor relations system that permits the Department to act quickly in situations where flexibility and swift implementation are most critical to achieving its mission (for example, in the deployment of personnel or introduction of new technology); that provides for the swift and fair resolution of labor disputes by a newly established and independent DHS Labor Relations Board; and that preserves the right of employees and their unions to bargain collectively over important working conditions.
- A streamlined mechanism for handling major disciplinary actions and employee appeals that preserves due process and retains intact all existing employee protections against reprisal, retaliation, and other prohibited personnel practices. It is important to note that the proposed regulations on employee appeals are the result of extensive and constructive consultation with the Merit Systems Protection Board, as required by the statute. (U.S. Congress 2004)

If there is a lesson to be learned from the DHS/Transportation Security Administration experience it is that public human resources management, as Frank Thompson observed more than thirty years ago, is necessarily "political" (Thompson and Oakland Project 1975). The creation of DHS in October 2001 reverberated in the elections of 2002. Triple-amputee Senator Max Cleland, who helped lead the fight to preserve the employment rights of Homeland Security employees, was painted as a terrorist sympathizer by his political opponents and lost his bid for reelection in Georgia. Norma Riccucci and Frank Thompson observe: "In sum, the election results of 2002 suggest that the Bush administration effectively reframed the debate over the human resource system in the DHS from an issue of management flexibility versus employee rights to an issue of national security versus self-interested union power" (2008, 879). However, as the political winds changed, DHS announced in early 2008 that it would "abandon its efforts to revise the labor relations component of the personnel reform, and it also pledged to proceed more slowly in its efforts to implant [a] pay-for-performance personnel system" (Riccucci and Thompson 2008, 884).

As with the Georgia and Florida cases (and contrary to the Jefferson County experience) the DHS example is a case of "reform" being driven for the purposes of increased managerial flexibility through decentralization of the human resources management function. James Thompson terms this "disaggregation." Commenting on the Department of Defense as well as the Department of Homeland Security, Thompson observes that "a direct consequence of these new systems, however, is the disaggregation of the federal personnel system into multiple, agency-specific systems. Disaggregation, in turn, represents a fundamental threat to an institution whose viability is contingent on its inherently collective nature" (2006, 497).

One significant difference in comparing the attempted DHS reforms with the reforms in Georgia, Florida, and the Jefferson County Personnel Board is the complicating presence of unions at the federal level. As mentioned earlier, Georgia and Florida are both right-to-work states with ineffectual union representation. The same could be said for the Jefferson County Personnel Board, with the exception being that employee "organizations" (with no collective bargaining rights) have exerted considerable influence on the state legislature to keep the Personnel Board intact in spite of being on opposite sides of the consent decree that spurred judicial oversight.

In DHS, the National Treasury Employees Union played an important part in mitigating the Bush administration's efforts to exert increased managerial control over the agency (Riccucci and

Thompson 2008). As evidenced by the Clinton experience, unions do not always oppose management when they perceive that mutual interests are involved. The National Partnership Council, created by Clinton's Executive Order 12871, "required federal agency heads to attempt to forge partnerships with federal employee unions." Riccucci and Thompson note that such mandated cooperative efforts took place while "other measures of the Clinton administration sought to enhance managerial discretion over human resources" (2008, 878).

Robert Tobias, a professor at American University and a former president of the National Treasury Employees Union, notes the Bush administration's quick reversal from the Clinton administration's overtures for a cooperative partnership between labor and management. Tobias states that unlike other chief executives, Clinton recognized "that labor and management each have interests that can be satisfied only with the cooperation of the other" (2005, 360).

It is a safe bet that Bush's personnel-related DHS reforms were largely unsuccessful due not only to their managerialist tendencies but also to the chilled relationship with key unions. While the Homeland Security Act promised increased "managerial discretion" in instituting pay for performance and administering collective bargaining relationships, implementation proved to be difficult, with little of a substantive nature accomplished by the end of Bush's second term (Riccucci and Thompson 2008, 880).

A quote from the congressional testimony of AFL-CIO's Robert Ault sums up the attitude of union officials about the DHS reforms: "The National Security Personnel System is not about security: it is about control. As you know, the blueprint for NSPS was written not in the Pentagon, but at the Heritage Foundation. It was embraced by the White House within the first few days after the inauguration of President Bush—a full nine months before 9–11. It was not proposed as a tool of national security but as a means for "controlling the bureaucracy." 9–11 was not the reason for NSPS: it was the excuse" (U.S. Congress 2005).

## COMPARING THE CASES

James Thompson (2007, 250) notes in describing Bush's proposed DHS reforms that "although it [was] not 'employment-at-will,' it represented a class movement toward providing managers with greater control over the workplace." In this manner, the case of DHS is very similar to the experience in Georgia, Florida, and other states that are incrementally dismantling employee rights and protections built up over the past three-quarters of a century. In the case of DHS, it remains to be seen what President Obama's management philosophy will entail. However, it is sure to somewhat thaw the chilled relations with federal employee unions.

While the Georgia case presents an extreme example of civil service reform (abolition), it also signals an increased desire for managerial discretion in governing. However, the reported chilling effect that at-will employment has on building trusting workplace relationships should give even radical reformers pause. Without an administrative infrastructure that is based on trust and mutual respect, it is hard to fathom how complex government bureaucracies can function effectively.

Florida's reform is as radical as Georgia's in its thrust, if not its reach, by eliminating vested property rights of sixteen thousand career employees. Prompted by those who wanted to apply a business model to government, reformers eliminated job security for these workers and instituted the private sector at-will employment concept. As in Georgia, there was little consideration for the resulting adverse consequences of such a change for workforce morale, trust, and commitment to the public service ethos.

The Personnel Board of Jefferson County case reminds us of the potential (and largely untapped) power the courts can have in influencing the reform (and modernization) of civil service

systems. It will be interesting to see how and if this modernized version of a centralized civil service authority will adapt to the needs of twenty-first-century organizations.

In each of the four cases, reformers promised that performance would improve if civil service systems were modified. Some reforms did bear positive fruit, but the complexities of implementing the reforms and unanticipated consequences have limited their success in each instance.

## **CONCLUSION: PAST AS PROLOGUE?**

There is obviously no “one best way” to organize the provision of human resources management services to local, state, and federal government. There are, however, enduring tensions—primarily the tension between the need for managerial flexibility and the requirement of a neutrally competent bureaucratic corps.

There are lessons to be learned from all four cases. The state of Georgia case points to the fact that unbridled elected and bureaucratic power will most certainly prevail in organizations with weak employee unions and little support from external actors. The result is a weakened or nonexistent civil service and ultimately a less readily qualified corps of employees to provide necessary governmental services.

The lessons from Florida are that ideology and political ambition can prompt reform in spite of the absence of persuasive evidence that government is performing poorly or that the corporate model can be easily applied to a government setting. Florida’s civil service reform is a classic example of addressing the wrong problem with a “solution” that has resulted in few constructive performance improvements and has had adverse consequences for the state workforce.

The Personnel Board of Jefferson County case points to the fact that the federal courts have an enormous untapped potential to reform civil service systems. As such, it would behoove elected and appointed officials to get their own houses in order or risk intervention from the federal courts, whose only guidelines are laws, not the most current human resources or public administration text.

The Department of Homeland Security example illustrates the necessary lesson that in a union environment, civil service reform will be successful only in an organizational milieu conducive to trust, respect, and mutuality.

In summary, the tension between neutral competence and political responsiveness will continue to influence how civil service systems are managed, reformed, modernized, and modified. As organizations seek a proper balance between employee rights and managerial flexibility, it is hoped that effective government service will be the guiding principle. Our overall assessment is that the state of civil service reform in the United States is in a period of transition. The possibility of encroaching spoils and cronyism looms on the horizon, as political and bureaucratic actors seek to add avenues for managerial flexibility to civil service systems. In pursuing “reform” of civil service systems, these leaders should be cognizant of why these civil service systems were initially formed—to professionalize government service, as well as to provide continuity of governance. If in the haste to reform civil service systems officials lose sight of this fact, we may well see the current penchant for radical reform providing a return to the unprofessional human resources practices of the past.

## **NOTES**

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1. New public management refers to a business-oriented approach to public administration that emphasizes decentralization, marketization, restructuring, and modernizing to enhance management rights and reduce government size.

2. The Winter Commission issued a report under the auspices of the National Commission on the State and Local Public Service. Among other things it recommended a more flexible personnel system, decentralization, greater managerial discretion, less emphasis on seniority, fewer job classifications, streamlined procedures, portable pensions, and pay for performance. The National Performance Review (later renamed National Partnership for Reinventing Government) refers to a Clinton administration initiative that sought to cut red tape, improve government performance, and hold public employees responsible for program results.

3. Broadbanding exists when several grades are combined, creating a broader salary range for a position. It allows more discretion at the agency level, offers more organizational flexibility, and provides incentives for long-term development. However, it may create problems in ensuring equal pay for equal work.

4. The spoils era refers to a historical period (1826–86) when appointment to government jobs was viewed as spoils of office (similar to spoils of battle) to those active in a victorious campaign.

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