

Civil Service: Some Pros, Cons and Suggestions for Reform
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Introduction

The purpose of this paper is to discuss some of the pros and cons related to civil service, and to offer suggestions for improvements. The paper does not pretend to cover all aspects of civil service, because such systems vary from jurisdiction to jurisdiction, but instead is meant to provoke thought and discussion aimed at improving our ability to govern - and to motivate and manage the employees in our local government workforce.

In particular the paper will highlight insights provided by other authors, some of which contain hard research regarding civil service. The paper will also offer suggestions for the reform of civil service, especially as it applies to Tennessee.

Introduction to Civil Service

Traditionally, “civil service” generally refers to the group of people employed in the administration of government. The term normally excludes elected officials but includes the vast bulk of those who see to the daily functioning of the public sector. But in modern times the term “civil service” has come to mean not the complete strata of officials who administer government but a more formalized set of standards by which many of them are selected; it reflects the idea that government functions best when it is staffed based on merit and not political patronage.¹ Most employees who work under these formal civil service systems are chosen based on written examinations.

For our purposes here then, we will define civil service as the formalized set of procedures and regulations under which a defined set of employees work. It includes the terms and procedures under which they are hired, promoted, disciplined, and dismissed. In nearly all cases these regulations are administered by a “third party” committee usually comprised of citizens appointed by both the city governing body and those employees affected by the civil service program.

Only 9 cities in Tennessee with populations above 10,000 have these formalized civil service systems (that’s about 15% of cities in this population group). These systems are not standardized, and they vary from city to city in terms of their procedures and regulations. They also vary in terms of the groups of employees to whom they apply. In almost all of these cases the regulations associated with civil service are codified in the city’s charter, or they have important components adopted in the charter by reference. Depending on the type of charter some provisions may be more difficult to alter than others.

¹ Citywide Administrative Services. Civil Service.” *New York Administrative Employees*. New York, New York. CWA Local 1180. 2000-2003. 1.

Here are the Tennessee cities larger than 10,000 in population, their populations, and the employees to whom civil service regulations apply:

<u>City</u>	<u>Population</u>	<u>Employees Under Civil Service</u>
Greeneville	15,274	Police and Fire
Dyersburg	17,452	Police
Morristown	25,402	Police and Fire
Columbia	33,055	Most except department heads
Johnson City	56,194	Police and Fire
Jackson	59,643	Police and Fire
Knoxville	173,890	Most except department heads
Nashville	545,915	Most, with some exceptions
Memphis	680,768	Most, with some exceptions

It should be noted that only 3 of these cities operate under something equivalent to a “Council-Manager” form of government. This is important because “form of government” has a relationship to civil service in terms of reform effort. More discussion on this relationship can be found below.

Benefits of Civil Service Systems

Civil Service systems in the United States emerged around 1877-1883 when both New York City and Brooklyn passed the first local civil service regulations. Federal application of civil service occurred with passage of the Pendleton Act in 1883. In each of these cases civil service was a part of a broader “reform movement” which was sweeping the country. This movement, and the related civil service systems which emerged from it, were aimed at reducing or eliminating the system of “spoils”, patronage, and corruption which seemed to characterize many governments of the day, including those at the local, state, and federal levels.

The civil service movement thus served to drastically improve local government operations at a time when professional management had yet to emerge. It replaced systems of patronage with staffing based on merit, as determined through examinations. It also reduced political influence in the hiring, promotion and dismissal of employees. In short, traditional political values ceased to control administrative appointments, and in its place technical expertise emerged as a preeminent appointment factor.²

From this point of view civil service has had a positive effect. Its influence in terms of reducing political patronage in the hiring process has been commonplace. This has been especially true in non-managerial positions, where the bulk of the local government workforce operate. It has been especially effective in jurisdictions where elected officials are responsible

² Clarence Stone, Robert Whelan, and William Murin. Urban Policy and Politics. 1979. Prentice Hall, Englewood, N.J. 78.

for the hiring, discipline, and dismissal of line employees and where strong personnel policies and procedures are not in place to guide these efforts. In these cases civil service has greatly contributed to the professionalism of local workforces.

Another positive benefit of civil service is that it can provide the workforce with a predictable and easy to understand set of criteria for advancement. In many cases it clearly spells out the specific criteria needed in order to move upward (“through rank”) in the workforce. The effect of this “career ladder” is that employees feel comfortable with the process of selection for advancement, as they more clearly see the future and possibilities for their movement through the organization.

An additional benefit of civil service may be its influence on unionization (which may or may not be considered a benefit, depending on which side of the unionization debate a decision-maker resides). However, it is likely that civil service has contributed to a reduction in the union activity in some jurisdictions. This is because many civil service regulations, when coupled with a quality set of personnel policies and procedures, can in effect replace many provisions found in union contracts. Here again, the removal of political influence in the workplace, be it either real or perceived, may contribute significantly to employee satisfaction.³ The effect of these dynamics may be that unionization of the public workforce has been slowed, or in some cases even prevented, through the application of a quality civil service program.

While civil service has thus served to improve operations in a number of jurisdictions it has also come under increasing attack, as certain modifications to civil service rules have served to reduce its positive effects. For example, one author has noted that the “legal straightjacket” on the hiring process is almost universally blamed for a widespread sense that the overall quality of employees is declining.⁴ In addition, with the advent of professional management (largely through the emergence of the Council-Manager form of government) the need for civil service has been reduced. This is because the “spoils” and “patronage” systems associated with the need for reform are not typically present in systems with the council-manager form. This has been substantiated in research which has shown that the presence of civil service is between 28% to 46% lower (depending on city size) in council manager cities than in other forms of government such as the strong or weak mayor systems.⁵

³ Vigoda, Eran. Organizational Politics, Job Attitudes, and Work Outcomes: Exploration and Implications for the Public Sector.” *Journal of Vocational Behavior*. Vol. 57. 2000. 326-347.

⁴ Olson, Walter. “Fixing the Civil Service Mess.” *City Journal*. Autumn 1997. 5.

⁵ Frant, Howard. “Rules and Governance in the Public Sector: The Case of Civil Service.” *American Journal of Political Science*. Vol. 37, No. 4, November, 1993. 999.

Criticisms of Civil Service and the Rationale for Reform

Osborne and Gaebler have noted that a personnel system built around civil service is one of the most destructive systems operating in government today.⁶ It is likely that this notion especially holds true in jurisdictions which have continued to utilize civil service systems in spite of other managerial changes in their structure or changes in the procedures guiding conditions of employment.

Over the past twenty years there has been much interest in reform. This reflects a movement toward productivity, service orientation, accountability for results, and improved capacity to devise and track policies; it also reflects a movement away from the civil service-based model, which is characterized by specialized, hierarchical, and relatively closed bureaucracies that are governed by rules, paperwork, and official procedures.⁷ Another author frames the civil service question in this way,

One big reason for America's global economic success is that its business managers have traditionally been free to hire and fire staff in search of high performance. Should public managers have freedom to do the same? Until now, the question would have seemed far-fetched: for decades, at the federal and state levels, as well as in big cities like New York, civil service laws have made it next to impossible to sack most government workers, even for blatantly sub par performance. The culture of public management takes it for granted that employees in effect "own" their jobs as long as those jobs continue in existence. Public managers have resigned themselves to the entrenchment of incompetents and shirkers at every level, as a necessary evil of government service. After all, isn't it the only alternative the evils of the spoils system?⁸

A number of years ago a Massachusetts Taxpayers Foundation surveyed state managers and found that, "No issue... evoked such a consistent and intense response as civil service hiring procedures. Managers uniformly find that it hinders rather than helps them hire suitable employees, and with some bitterness cite civil service as the most serious impediment to accomplishing their mission."⁹ The 1993 *National Commission on the State and Local Public*

⁶ Osborne, David and Ted Gaebler. Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector. 1992. Addison-Wesley, Reading, MA. 124.

⁷ Battaglio, Paul and Condrey, Stephen. "Civil Service Reform: Examining State and Local Government Cases." *Public Administration Review*. Vol. 26, No. 2, June 2006. 118.

⁸ Olson. 1.

⁹ Osborne and Gaebler. 125.

Service put it this way:¹⁰

Many state and local governments have created such rule-bound and complicated systems that merit is often the last value served. How can merit be served, for example, when supervisors are only allowed three choices from among hundreds of possible candidates for a job? How can merit be served when pay is determined mainly on the basis of time on the job?

Osborne and Gaebler point out:¹¹

In business, personnel is a support function, to help managers manage more effectively. In government, it is a control function - and managers bitterly resent it. Consider just a few of the major problems:

- *Hiring - Managers in civil service systems cannot hire like normal managers: advertise a position, take resumes, interview people, and talk to references. They have to hire most employees from lists of those who have taken written civil service exams. Often they have to take the top scorer, or one of the top three scorers - regardless of whether that person is motivated or otherwise qualified (in San Francisco, if two applicants tie for the top score, the one with the highest social security number gets the job).*
- *Classification - Civil service jobs are classified on a graded scale, and pay within each classification is determined by longevity, not performance.*
- *Promotion - Promotions are controlled by the personnel department, not the manager. They seldom have anything to do with performance. In a typical job - in a police department for example... managers have to promote from among those already in the proper career track who have scored highest on the promotional exam.*
- *There's an old saying: "Government workers are like headless nails: you can get them in but you can't get them out." The process of (dismissal) is so time consuming and difficult that few managers ever fire anyone. Instead managers tolerate incompetents, transfer them, or bump them upstairs.*

¹⁰ Winter, William (Chairman). Hard Truths/Tough Choices: An Agenda For State and Local Reform. The Nelson A. Rockefeller Institute of Government, Albany, New York. 1993. 24-25.

¹¹ Osborne and Gaebler. 125 - 127.

The result is a system in which managers cannot manage, deadwood is kept on, and morale goes through the floor. ... we asked a Personnel Director how much civil service limited the creativity of the bureaucracy... his answer, "How high over 100 percent can I go?"

The need for reform has also been reflected in research such as that conducted by Hal Rainey. He found that when comparing managers in government systems utilizing civil service with business managers the government managers perceive a weak relationship between performance and pay, promotion, job security, and recognition from the organization. They also tend to feel that the personnel procedures governing their organizations constrain the administration of incentives in that they make it harder to associate such incentives with a manager's performance. For example, they are much more likely to feel that formal procedures make it difficult to fire a poor manager or reward a good one with higher pay. Both of these conclusions reflect the impact of civil service systems.¹²

These sentiments are further reflected in research conducted by Elling in 1986. He found that among public managers in 10 states, difficulty in rewarding employees, civil service hiring procedures, and difficulty in disciplining or dismissing employees were ranked first, fourth, and fifth in seriousness among 52 management problems.¹³

Here are additional reasons for reform:¹⁴

- Safeguards designed to prevent political abuse of employees can result in severe constraints on the ability to correct situations where employees are not sufficiently productive or effective in their current positions.
- Many jurisdictions may already have regulations granting a "property right" to employees, and thus additional guarantees (such as those provided by civil service) are not needed.
- Existing systems serve as a disincentive rather than an incentive for performance improvement.

¹² Rainey, Hal G. "Perceptions of Incentives in Business and Government: Implications For Civil Service Reform." *Public Administration Review*. Vol. 39, No. 5, September-October 1979, 443-444.

¹³ Elling, Richard C. "Civil Service, Collective Bargaining and Personnel-Related Impediments to Effective state Management: A Comparative Assessment." *Review of Public Personnel Administration*. Vol. 6. 73-93.

¹⁴ Matzer, John Jr. "Perspectives On Civil Service Reform." in Creative Personnel Practices: New Ideas For Local Government. John Matzer, ed. 18-25.

- There may be lack of management accountability for personnel actions because management has little discretion regarding hiring and firing decisions.
- The system may involve a rigid and cumbersome set of procedures that cause excessive delays.
- The system may not facilitate productivity improvement efforts.
- The system may discourage the retention of the highest-quality employees by rewarding longevity rather than performance.

Another study found that civil service actually increased spending, and that such increases were associated with how long civil service had been in effect.¹⁵

Civil Service Reform

In terms of reform itself, it has been noted that a wholesale overhaul of civil service may not be the best solution in all cases, and in fact may not be politically acceptable in many circumstances. Instead, an incremental approach which adjusts specific civil service provisions, may be best.¹⁶ This being the case, examining an individual jurisdiction in which civil service is present and tailoring reforms based on that jurisdiction's capabilities, traditions, and future-orientation, is likely the most effective approach. In short, one reform size may not fit all.

Experiments in civil service have demonstrated positive results through such reforms as:¹⁷

- broad classifications and pay bands;
- implementing market-based salaries;
- using performance-based pay;
- promotion and layoffs by performance rather than seniority;
- hiring systems that allow managers to hire the most qualified people (within legal and affirmative action guidelines);
- aggressive recruitment of the best people; and
- streamlining of the appeals process for employees who are fired.

Other potential reforms have also been identified. Some include:¹⁸

¹⁵Osborne and Gaebler. 127-128.

¹⁶ Battaglio and Condrey. 134.

¹⁷ Osborne and Gaebler. 129.

¹⁸ Winter. 26-30.

- Reducing constraints on managerial discretion (such as those imposed by civil service) and replacing these with clear protections for those who may face discrimination (such as those provided by comprehensive personnel policies).
- Placing limits on the effects of seniority as it pertains to hiring, promotion and downsizing.
- Reducing the number of job families into which employees fit. This will allow greater flexibility in staffing.
- Streamlining the pay structure by utilizing a smaller number of broad pay bands. This will provide managers with greater flexibility when rewarding employees.

Civil service systems are probably least needed, and are thus the greatest hindrance to effective management, in cities with either the Council-Manager or Council-Administrator forms of government (or other professionally-based forms). This is because these forms are already merit-based in nature (for example, most of these forms go so far as to denote, usually in their charters, that the manager must be hired based on “qualifications and merit”), and practices associated with “merit” commonly extend throughout the workforce, as there is no advantage to be gained through “spoils” or patronage-based hiring, dismissal, or promotion. This is largely due to the fact that the Manager/Administrator position is not elected, but appointed.

It should be noted that this may be true to a somewhat lesser degree under the Council-Administrator form, where the council may retain all or some of the responsibility for hiring or dismissal and therefore may continue to see patronage as a tool of political gain. However even in these systems there typically runs a strong commitment to merit-based hiring (exemplified by the merit-based hiring of the chief Administrator position itself). This being the case the elimination of civil service should remain a “reform” option in these cities as well.

In other communities, changing to a Council-Manager type form of government would be a viable option when considering civil service reform. The very change to such a form will in itself move toward implementation of a merit-based system.

If complete elimination of civil service is considered as a “reform” option, then the city must be sure that an adequate *Personnel Policies and Procedures* document is in place to address many of the issues typically found in a civil service program - including procedures for hiring, discipline, dismissal, grievances, etc.. However, if elimination is not an option, adjustments to existing civil service regulations should be carefully examined, based on many of the specifics identified above.

In most cases where civil service is present it does not apply to the entire workforce. This being the case, in addition to the alteration of existing civil service regulations for those to whom it does apply, each jurisdiction should also examine its current *Personnel Policies* so that they adequately address conditions of employment for the remainder of the workforce. It is

imperative that an adequate set of *Personnel Policies* is in place so that the rationale for initiating civil service for all remaining employees is partially removed.

Conclusion

In conclusion it should be noted that Civil Service has a long and varied history. There are a number of both pros and cons which surround civil service. In general it appears as though the primary benefit of civil service, and hence its primary application, has been in cities with “politically driven” forms of government such as the weak or strong-mayor forms. In these cases civil service has partly helped to ensure the non-politicized appointment and advancement of the workforce.

The presence or absence of a quality set of *Personnel Policies and Procedures* is another important consideration when analyzing civil service. If these are in place they may serve to address many of the issues also addressed by civil service, including procedures for hiring, discipline, and dismissal. In fact it is now a requirement for most Tennessee communities that a set of *Personnel Policies and Procedures* be in place, and that they contain the items mentioned above as well as a “grievance procedure.” This results in a document which then addresses key provisions of many civil service programs. As such the alteration or elimination of civil service should rest partly on the presence or development of a quality set of *Personnel Policies and Procedures*.

The only notable absence in this regard are testing requirements, and especially those pertaining to police and fire. Many non-civil service communities require testing for both entry-level and advancement of employees, but not to the same extent as civil service (at least in most cases). However, it should also be noted that the rigidity of many civil service testing and advancement procedures have given rise to numerous criticisms, many of which point to the absence of other important hiring or advancement criteria (such as performance).

So all in all it is apparent that civil service can greatly constrain key personnel decisions, and can possibly lead to mediocrity. But it can also help professionalize the workforce in the presence of a politically dominated workplace. Each of the “positives” and “negatives” should be weighed in light of current needs and future directions, then an informed decision regarding alteration or elimination of civil service take place.