Modernizing Florida's Civil Service System:

MOVING FROM PROTECTION TO PERFORMANCE

November 2000

A Report from The Florida Council of 100

MODERNIZING FLORIDA'S CIVIL SERVICE SYSTEM

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About The Florida Council of 100

Formed in 1961 at the request of Governor Farris Bryant, The Florida Council of 100 exists to promote the economic growth of Florida and improve the economic well-being and quality of life of its citizens. It is a private, non-profit, non-partisan association whose members represent a cross-section of key business leaders in Florida. The Council was the first of its kind in the United States and works in close harmony with the Governor, The Chief Justice, and the Legislature, as well as with other private organizations to achieve its goals for all the people of Florida. The Council has other task forces at work on issues relating to K-12 education, higher education, and economic development of inner cities. The Civil Service Reform Task Force was established in the fall of 1999 to review the human resources management system of the State of Florida, and to contribute to improved governmental efficiency by proposing improvements to that system.

TASK FORCE MEMBERS

Acknowledgements

The Council Task Force would like to acknowledge the pro-bono support of a number of organizations and individuals involved in this effort. Florida TaxWatch Research Institute, Inc., a long-time collaborative partner with the Council, provided most of the research for this report – we are especially grateful for the assistance of TaxWatch President and CEO, Dominic M. Calabro, COO Dr. Keith G. Baker, and Senior Research Analyst Mike Walsh. Dave Wenner, Managing Partner of the Miami office of the McKinsey Company provided great visioning for the effort, and Thom Shaw of the McKinsey Atlanta office pulled everything together in report format for us. Dana Russell and Joe Tanner, state agency chiefs and leaders of the Georgia reform activities in the early 1990s, devoted hours of insight into their modernization of the Georgia Merit System. Attorneys Fred Karl with Annis, Mitchell, Cockey, Edwards and Roehn, PA, and John-Edward Alley with Ford & Harrison, LLP, were most helpful in understanding the legal ramifications of Career Service System change. And finally, much of our understanding of the current Career Service System was provided by conversations with several state human resource managers. We also engaged Dr. Pat Ingraham of the Maxwell Center at Syracuse University, a leading consultant on civil service in the United States, who was very helpful in providing the background of civil service and the many attempts over the years to modernize it.

Dear Governor Bush, President of the Senate McKay, and Speaker of the House Feeney:

From The Chairman of The Florida Council of 100:

Since its inception in 1961, The Florida Council of 100 has worked with governors and legislatures to improve the quality of life and the economic well-being of the people of Florida. Public policy changes have been made over the years to improve Florida, and the economy today continues as the best in history.

We have found, however, that people's trust in their government continues to be far less than desired for this function which is so important in the day-to-day life of Florida's people. We've researched the situation and drawn the conclusion that one of the primary reasons for the public's mistrust lies in the antiquated and cumbersome personnel system for most of Florida state employees called Career Service.

This report, then, explains the current situation and proposes some sweeping changes to Career Service, which the Council believes will improve Career Service for both the employees within it and the taxpayers and people of Florida.

Charles E. Cobb, Jr.
Chairman, The Florida Council of 100
(Managing Partner and CEO, Cobb Partners, Ltd.)

From the Chairman of the Council Task Force to Modernize Florida's Civil Service System:

Our task force has spent almost a year studying the Civil Service System in Florida and various civil service systems in other locations. We've reviewed the Florida Constitution, applicable statutes, administrative code, and the collective bargaining process. We've interviewed state and local officials in Florida, as well as from California, Texas, and Georgia. We've talked with human resource directors in private companies, and knowledgeable civil service consultants.

From this research, the task force has concluded, as have several previous bi-partisan commissions and non-partisan groups, Florida needs to thoroughly modernize its employment practices, selectively adopting and fully implementing private sector management techniques. In short, the model for government employment needs to change from protecting state employees to enabling their performance. An organizational transformation is required.

We urge you to read this report closely, and are sure you will agree with our conclusions. Bold action will be required to make the necessary changes. The result will be greater productivity, new levels of individual and team performance, and greater trust in government by the people of Florida. The time for modernizing the Civil Service System is now.

Alfred Hoffman, Jr.
Vice-Chairman, The Florida Council of 100, and Chairman, Task Force to Modernize Florida's Civil Service System
(CEO, WCI Communities)

INTRODUCTION: The Necessity for Reform

Serving Florida's diverse population well is a major challenge. To continue growing, remain prosperous, and improve the quality of life for Florida's people, the state must manage its affairs efficiently and address a variety of difficult issues. Success in these efforts will require Florida's state government – the state's largest employer – to have a well-motivated, productive, and highly responsive workforce.

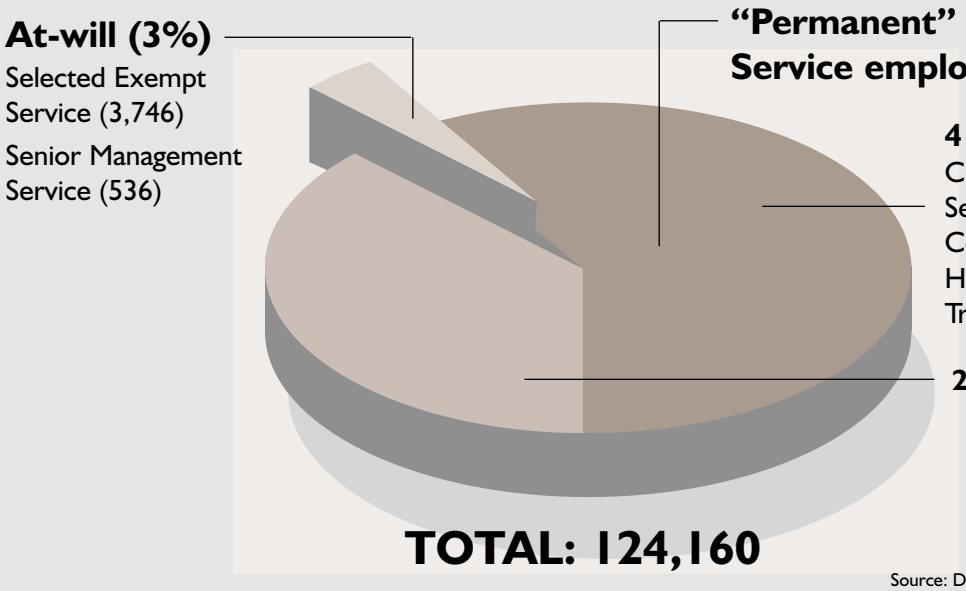
Managerial practices in state government, however, have not kept pace with advances in the private sector, leading to generally lower public-sector performance. The problem has many facets: slower implementation of technology, lack of long-term planning, inefficient use of capital, insufficient flexibility for managers, improper budget incentives, and even at times "over-management" by past legislatures. Ultimately, a comprehensive transformation will be needed to raise the performance of our state government to a level its citizens need and expect.

Chief among the constraints to effective and efficient government performance, however, is the state's human resources model for Career Service employees, the largest employee segment in the Executive branch of government (the "State Personnel System") (Exhibit 1). As will be described in later pages, this issue does not exist in the other branches of government. The core of the State Personnel System problem is Chapter 110, Florida Statutes (FS) and Chapter 60K, Florida Administrative Code (FAC). Together with collective bargaining agreements (Exhibit 2), they create a web of restrictions which make managing human resources in state government extraordinarily cumbersome. For example, the terms of employment make hiring and firing employees extremely difficult, limiting managers' ability to do their jobs; seniority as the principal criterion for retaining employees during workforce reductions sacrifices performance and undermines productivity; the compensation system does not adequately differentiate employees by performance, demotivating the most capable workers; and tight control of daily activities inhibits development of a customer-service mind-set.

Improving government performance through better management of employees is not a new issue. The past 15 years have seen several attempts at reform, under both

EXHIBIT 1

EMPLOYEES IN FLORIDA'S STATE PERSONNEL SYSTEM



Source: Department of Management Services

Republican and Democratic administrations. Despite the bipartisan nature of this issue, none of the attempted reforms has been fully implemented or substantially delivered the desired change. The result, according to Florida State University's annual public policy survey, is that more than 60 percent of the public does not trust state government to do what is right most of the time.

The Florida Council of 100, an organization of chief executives from leading Florida companies, created a task force to study management practices in state government. The task force has examined Florida's constitution, statutes, administrative code, and collective bargaining process as they relate to civil service employment. We have analyzed the history of civil service in Florida and the United States. And we have talked with private-sector human resource directors and interviewed state and local officials in Florida, as well as from other states (California, Texas, and Georgia).

From this research, the task force has concluded that Florida needs to thoroughly modernize its employment practices, selectively adopting and fully implementing private-sector management techniques. In short, the model for government employment needs to change from unduly protecting Career Service employees to enabling their performance. While Article III, Section 14 of Florida's Constitution requires a civil

EXHIBIT 2

LEGAL FRAMEWORK FOR FLORIDA'S CAREER SERVICE SYSTEM

1. FLORIDA STATE CONSTITUTION	**Article I, Section 6: Right to work.** Florida Supreme Court has held it grants public employees a protected right to form and join unions and collectively bargain, but prohibits strikes by public employees **Article III, Section 14: Civil service system**. Provides for a civil service system for state employees; authorizes boards to prescribe qualifications, selection methods, and tenure
2. FLORIDA STATUTES	**Chapter 110, FS: state employment.** Outlines general policies and creates: • Career Service system with "permanent" employees • Senior management service system for executive branch employees • Selected exempt service system for positions requiring specialized skills **Chapter 110.201, FS:** charges Department of Management Services with providing uniform rules for human resources administration **Chapter 110.217, FS:** grants government agencies the right to establish own guidelines for making appointments and promotions **Chapter 110.227, FS:** allows Career Services employees with "permanent" status to be suspended or dismissed only for "cause"
3. FLORIDA STATE ADMINISTRATIVE CODE	Department of Management Services' guidelines (Chapter 60K) stipulate processes for hiring, promoting, suspending, and dismissing employees
4. COLLECTIVE BARGAINING	Agreement between State of Florida and American Federation of State, County, and Municipal employees helps define how many issues are handled, e.g., grievances, reassignments, workforce reductions, and layoffs

service system with means for prescribing the qualifications, methods of selection and tenure for state employees, nothing in the Constitution requires that civil service employees be granted "permanent" status, in effect a property right in his or her employment. In fact, our research shows that while only 3% of employees in the executive branch of government are "at will" (Exhibit 1) 100% of the employees of the judicial branch, 100% of the employees of the legislative branch, and 100% of the employees of the Florida Lottery are "at will" (Exhibit 3).

EXHIBIT 3

COMPARISON OF AT WILL EMPLOYMENT IN BRANCHES OF GOVERNMENT

Executive (State Personnel System) 5,382 "At Will" of 124,160	**3%**
Judicial 9,991 "At Will"	**100%**
Legislative 1,312 "At Will"	**100%**
Florida Lottery 715 "At Will"	**100%**

We therefore recommend that the state begin reforming its civil service system by repealing Chapter 110, FS and replacing it and its administrative code.* Repealing Chapter 110, FS and the related administrative code will provide Florida with the statutory framework needed to accomplish a long overdue organizational transformation within state government.

To be clear, we are not suggesting that seeking state employment as a career objective is in any way undesirable. In fact, there are many good reasons to encourage it, including providing state government with continuity and institutional memory and a reliable workforce. However, providing "permanent" employment through a protected status for Career Service employees is detrimental to all – to state government, the public being served, and ultimately the individual employee.

This document outlines the reasoning behind our recommendation, and proposes an avenue for implementation. It is organized around three findings:

1. **It is time to change the model for government employment**
2. **Past attempts at incremental reform of the Career Service System have failed**
3. **Modernizing Florida's Career Service System will require a fresh start.**

* As the attached opinion signed by Frederick Karl, former Florida legislator and Florida Supreme Court justice, and a currently practicing attorney indicates, (See Appendix, Exhibit 1) no provision of the Florida Constitution provides for "permanent status" for civil service employees. Any such "permanent status" that may exist does so because of previous legislative action and/or collective bargaining agreements, both of which may be revised with due process. There is no prohibition in the Constitution against the legislature making all who work for the state "at will" employees.

CHAPTER 1:

It's Time to Change the Model for Government Employment

In the Career Service System, as set out in Section 110.227, FS, employees with "permanent" status can be suspended or dismissed only for "cause." This provision grants Florida's approximately 120,000 Career Service employees – 97 percent of the State Personnel System employees – a property right, which can be removed only through a complicated web of restrictions called "due process." It gives employees in Career Service a protected status not vested in private-sector workers. The citizens of Florida should not, and we believe would not want, to provide a protected status for state employees that is above and beyond the rights all other citizens enjoy in their own jobs. Furthermore, this protection makes managing human resources cumbersome, is demotivating for managers, and damages the reputation of all state employees.

While employees with ongoing careers in public service provide important benefits to the public, the Career Service employment model with protected status is obsolete; state government should return to the "at will" employment model of the private sector. Very simply, "at-will" employment allows employees and employers to sever their employment relationship at any time and for any reason. This might sound like an opportunity for employers to take advantage of employees; however, in practice numerous federal and state legal protections help ensure that employees are treated fairly and have ways of seeking redress if they have not been. It is worth noting that at-will employment is the norm not only in the private sector, but also in the legislative and judicial branches of Florida's state government.

Three lines of evidence support our finding that the protected-status model for government employment should be replaced with "at will" employment:

- Current restrictions and protections in Career Service hurt the government's ability to perform.
- Protected-status employment will increasingly constrain state government in its efforts to recruit, motivate, and retain top talent.
- Protected-status employment is no longer necessary. It was designed to solve the problems of a different era, problems that we can now address more effectively with other means.

Current restrictions and protections in Career Service hurt government's ability to perform

The principle of protecting government employees and giving them "permanent" employment, the core of Career Service, has outlived its usefulness. Improved human resources management techniques in the private sector have helped fuel America's enormous gains in productivity in recent years. The public has grown accustomed to dramatically improved service and now demands the same from government. Although modern personnel practices have enabled private-sector companies to take the actions needed to better serve their customers and to remain competitive in national and world markets, these practices do not yet exist in state government.

Current Career Service employment practices damage productivity in four ways:

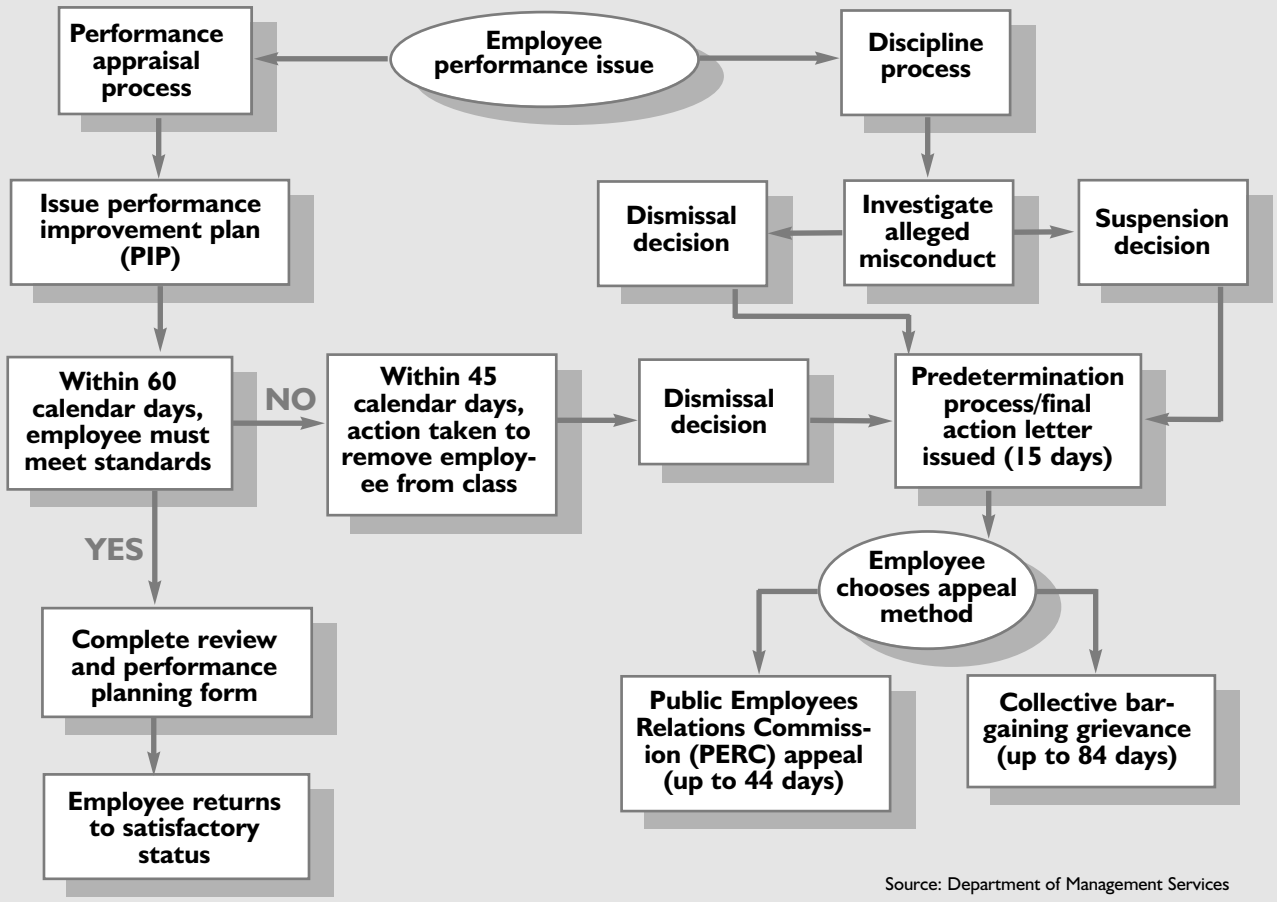
(1) Terms of employment constrain hiring and firing. The issue is whether government employees should be a specially protected employment class or employed at will. In the private sector, employees can be hired and dismissed "at will" – within the bounds of numerous statutory guidelines designed to ensure fairness and the absence of discrimination. At-will employment allows managers to respond to emerging labor needs in their work area in a timely way. This might involve adding a new worker. It might also mean dismissing a worker in order to limit the waste of institutional resources and damage to employee morale which results from continued under-performance from fellow workers. With Chapter 110, FS and its attendant rules and regulations , hiring employees (60K-3, FAC)– especially for new positions – and firing under-performing workers (60K-4, FAC) takes an inordinate amount of time and paperwork (Exhibits 4 and 5).

Here is a noteworthy example of how difficult managing resources can be. In this case, a chief of staff for an agency needed to hire an administrative assistant, but the position had to remain unfilled for weeks. The department received 184 applications, every one of which had to be rated individually against the qualifications (60K-3.0072, FAC) and documented (60K-3.0092, FAC), so as to prevent possible accusations of bias. At least three of the highest scoring applicants had to be interviewed and each interview's questions and answers had to be documented. A justification memo had to be written to explain why a certain candidate was chosen and a personnel action form requiring the approval of six people had to be completed. It typically takes at least 45 to 60 days to hire an applicant, even for routine positions.

Dismissing an under-performing employee can be even more difficult, often taking

EXHIBIT 4

PROCESS FOR HANDLING EMPLOYEE PERFORMANCE ISSUES



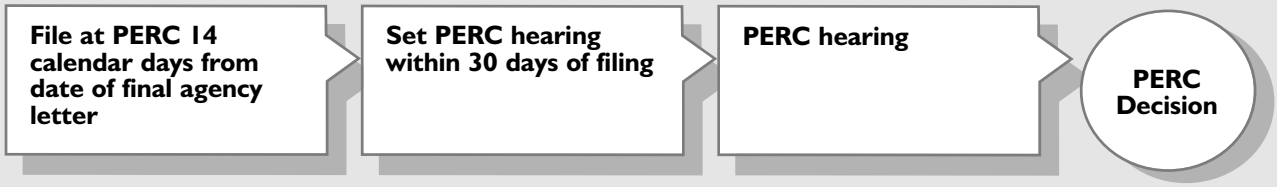
Source: Department of Management Services

months or even years and hundreds of pages of documentation (110.227, FS; 60K-9, FAC). Here is an extreme example: for seven years the Department of Labor has been struggling to dismiss a chronic under-performer who is frequently absent, except on the day before a state holiday – by working the day before the holiday, the employee qualifies for pay for the holiday itself (60K-5.026, FAC). The first dismissal attempt occurred in 1993, shortly after the federal Family and Medical Leave Act was passed. The employee sought protection under the act; the department deemed the under-performance unrelated, but found its decision overturned by the Public Employees Relations Commission. In the years since then, the department has provided the individual with several chances to reform – to no avail. Because the individual was not coming to work, the department had to send a dismissal notice by mail. The employee appealed the dismissal on the grounds that there had not been a prior

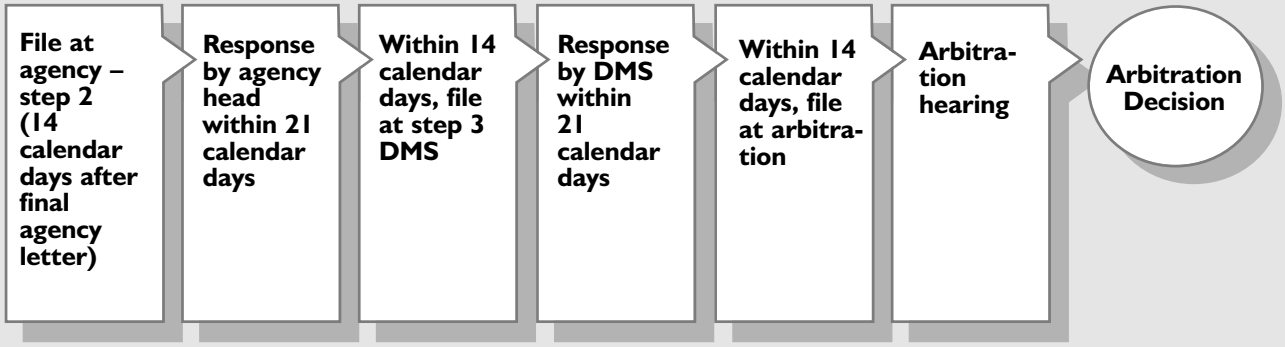
EXHIBIT 5

APPEALS PROCESSES FOR CAREER SERVICE EMPLOYEES

PERC Appeal



Collective Bargaining Grievance



verbal warning.

(2) Seniority as the principal retention criterion sacrifices performance. Protected-status employment does not adequately reward excellent performance, because it provides inappropriate rights to employees based on seniority. This use of seniority creates the grounds for the practice of "bumping," in which a longer-tenured employee whose position as been eliminated can take the job of a more recently hired employee occupying an equivalent or lower title in the same job classification (60K-17.004, FAC). This would include any job classification the employee had held for 6 months or more at some point in his or her career. This practice disrupts work in many ways, and to no one's benefit. The bumping employee may have to take on work for which s/he is not well qualified. The public receives poor service and low productivity, while often times having to pay the bumping employee a salary substantially higher than is appropriate to the position into which s/he is bumping. The manager loses the ability to match employees with assignments. And the bumped employee is uprooted from his or her position. The bumped employee may be out of work, regardless of performance – unless s/he has "permanent" status, in which case s/he can bump someone else in turn, propagating the disruption and lowering productivity further.

Here is an example: when the legislature abolished the Division of Safety, it gave 15 months' notice, setting the effective date a year and a quarter from the day the law was enacted. Among the staff facing possible unemployment was a safety engineer based in Tampa with the widely held job title of Operational Management Consultant, Level 2 (OMC2). Finding another OMC2 position should have been relatively easy. Rather than look for a job elsewhere in government or the private sector, the OMC2 stayed in the department with less and less to do, collecting his $46,000-a-year salary, until formal notice arrived stating that the position was being eliminated in 1 month. With notice in hand, the engineer could now legally bump someone else. After collecting what was essentially luxurious unemployment compensation for 14 months, he chose to bump a capable administrative assistant making $32,000, because the position was in Tampa. During college, years before, the OMC2 had worked as an administrative assistant and could therefore do this. Meanwhile, the bumped employee, a single mother, could not find a suitable open position or even anyone in Tampa to bump in turn, and so took the job of someone across the state in Palm Beach County.

The manager of the office in Tampa had no control over who got the administrative assistant's job. The employee with seniority – not necessarily merit, performance, or qualifications – was "entitled" to it. And taxpayers had to pay $14,000 a year extra for the new occupant of the Tampa-based position. Under current rules, the bumping employee's salary could remain at the higher rate for up to 5 years (60K-2.004(4)(a), FAC), though some agencies' rules would allow for a decrease of up to 10 percent.

(3) Compensation system does not adequately differentiate employees by performance. In the private sector, where employee mobility is assumed, companies must provide competitive compensation and reward good performance in meaningful ways, typically through merit-based bonuses and raises. Although, these can vary widely from year to year, based on the individual's, the team's, and/or the company's performance, they are a tangible and expected part of compensation, one that clearly and consistently links rewards with individual or group performance. If a company decides to increase its compensation budget by, for example, 3 percent, it typically will differentiate among its business units, rewarding better performing ones more than its weaker performing ones. And it will allow the managers within those areas the discretion to reward valuable employees with bonuses and raises; a high performer might receive a 10 percent increase, while a low performer might receive no merit increase at all.

In Florida's state government, legislative allocations dictate how employees will receive compensation. In most years – though not all – Career Service employees

receive an across-the-board salary adjustment, which in 2000 amounted to 2.5 percent (House Bill 2145, Section 8). The across-the-board adjustment as a management tool has the effect of rewarding under-performing workers and neglecting the high-performing ones. It can be very demotivating to a high-performing employee to realize that despite a year of hard work, there will be no significant recognition of it and the laggard in the next cubicle will receive the same raise.

Less frequently, agency heads receive an allocation for discretionary non-recurring salary incentives ("bonuses") in order to "recruit, retain, and reward quality personnel." All bonuses, unlike customary forms of salary adjustments and pay additives, must be allocated by the legislature (216.181(10)(b), FS). In 2000, House Bill 2145 granted agencies the right to use 0.25 percent of their budget allocation for personnel costs for this purpose in fiscal year 2000-01 (HB 2145, Section 51). This move allows agency heads to reward a very few employees in a meaningful way or a slightly larger group in a less meaningful way. Regardless of the method they chose, agency heads do not know whether they will be able to repeat the awards next year.

The rarity and unpredictability of funds for bonuses and salary increases greatly complicates managers' attempts to differentially reward and motivate their subordinates. It also drives them to various cumbersome, though legal maneuvers called "rate games." For instance, an agency might keep funded but unfilled positions unfilled, so that it can distribute the unused salary allocation to existing employees who deserve superior proficiency adjustments or some other pay additive. In this way the agency can create a degree of managerial flexibility. In summary, linking compensation to performance is extremely difficult in Career Service, and without a clear, consistent linkage, the system offers little reason for employees perform at a level commensurate with the private sector.

(4) Tight control of daily activities inhibits responsiveness and problem solving. Unduly tight controls over daily work create an environment in which solving problems and accomplishing the work becomes of secondary importance; going through the motions matters more. Such micro-control often ends up making simple tasks unnecessarily complicated. Furthermore, having to abide by cumbersome, work-increasing rules deadens personal initiative and cooperation and fosters an attitude of indifference among employees. It makes innovation, the lifeblood of high-performing organizations, almost unimaginable. By contrast, private sector companies have been restructuring so as to push decision-making authority to the lowest possible levels, so that employees who are closest to particular issues and best positioned to understand the ramifications, can make appropriate decisions. The objective has been to enable these employees to be more productive, responsive, and customer oriented.

Career Service employment is increasingly constraining government's ability to compete for talented employees

EXHIBIT 6

SUMMARY OF "WAR FOR TALENT" IMPERATIVES

1. Instill a talent mind-set in all levels of the organization – beginning with senior management

2. Create "extreme" employee value propositions: make the case for why a talented person would want to work in the organization

3. Build a high-performance culture: combine a strong performance ethic with an open, trusting environment

4. Recruit great talent continuously: the most aggressive organizations are always looking for talent and are willing to bring it on board when they find it

5. Develop people to their full potential: effectively conceived stretch jobs, coupled with informal feedback, coaching, and mentoring, are enormous developmental levers

6. Make room for talent to grow: organizations suffer an enormous cost by not acting on the negative influence of underperformers

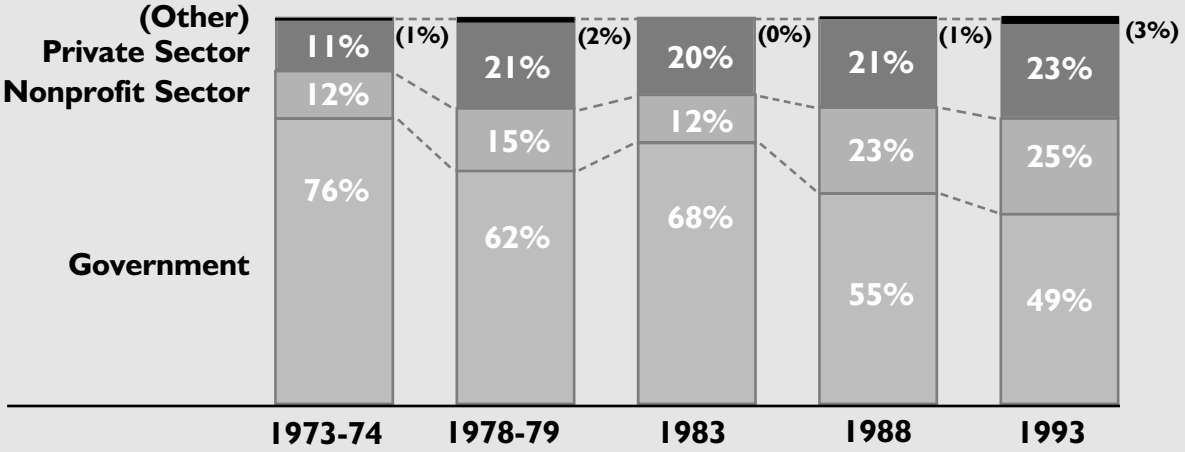
7. Retaining high performers: organizations must demonstrate that they value and appreciate their people

State government may be the single largest employer in Florida, but it is losing a war for talent that has developed among employers throughout the United States. Many factors are making labor markets increasingly competitive, including well-documented demographic shifts, such as Baby Boomers aging and fewer younger workers entering the workforce. In addition, younger workers now expect to have a portfolio of careers, changing jobs many times over their working life rather than staying with a single employer for decades. According to a recent study of the private sector by McKinsey & Company, this "war for talent" is having a large and growing impact on the business community. Organizations are taking a variety of steps to build strong workforces (Exhibit 6), because even in large organizations, individuals make a significant difference, with high-performing employees often 40 to 70 percent more productive than the average worker. The bottom line is that those that succeed in attracting and retaining talent significantly out perform their competitors.

Protected-status employment limits the state's ability to attract and retain the talented workforce it needs. As one official in state government said, "most state employees enter public service with positive motives about serving the public, but they are beaten down by poor incentives

EXHIBIT 7

EMPLOYMENT DECISIONS OF GRADUATES FROM TOP U.S. PUBLIC POLICY SCHOOLS



SOURCE: The Brookings Institute

and poor performance by colleagues." Unless Florida updates its human resources practices, in which protected status plays a central part, the state's competitive position will only worsen in the future. To attract sufficient numbers of highly capable employees, Florida will need to ensure that it is offering meaningful work and appropriate compensation to those who can take on responsibility.

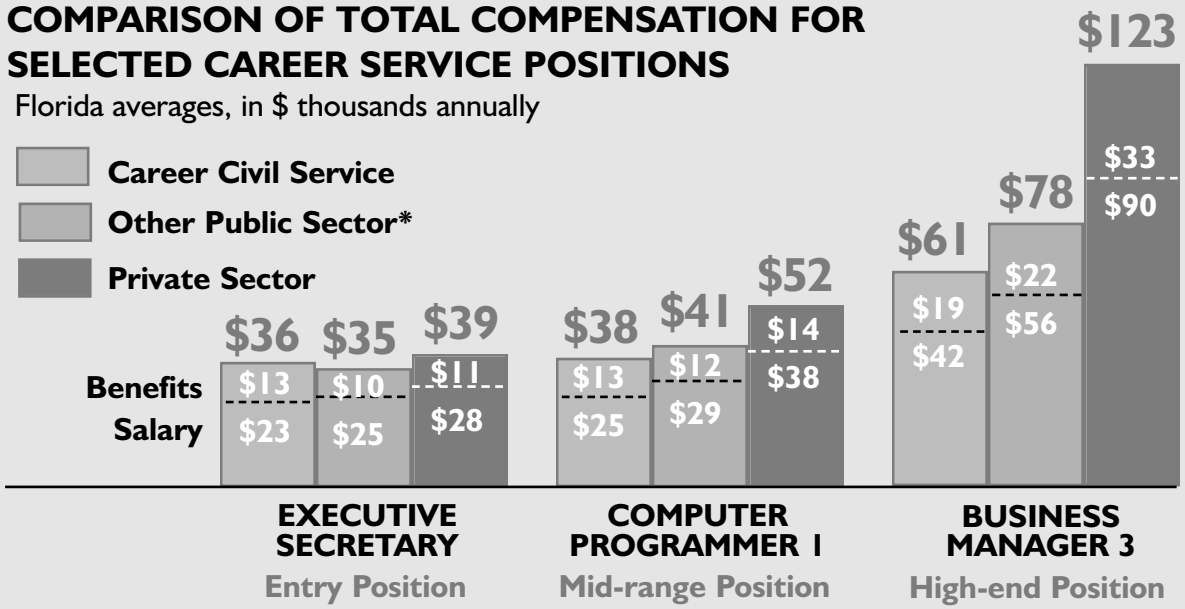
Attracting high-quality candidates for work in the civil service is growing more difficult. More and more graduates of the country's top public policy schools – people with a clear interest in public service – are choosing non-government careers, opting instead for nonprofit or private sector positions (Exhibit 7). According to a Brookings Institute report, "Today's public servants expect to change jobs and sectors frequently and are more focused on challenging work than on security. They want jobs with tangible impact." Tangible impact is vastly harder to achieve in a workplace with protected status employment, for all the reasons we have discussed.

In addition to a work environment where they can get things done, employees expect to be compensated with a reasonably competitive salary and suitable benefits. In Florida's Career Service, many in critical middle management positions are not compensated competitively. For example, the starting compensation (salary plus benefits) for a Career Service Business Manager, Level 3, is only 72 percent of the average for a comparable position elsewhere in Florida's public sector, and it is only 50 percent of the private sector average (Exhibit 8). Protected-status employment pushes salaries and productivity downward for everyone: because protected status represents

EXHIBIT 8

COMPARISON OF TOTAL COMPENSATION FOR SELECTED CAREER SERVICE POSITIONS

Florida averages, in $ thousands annually



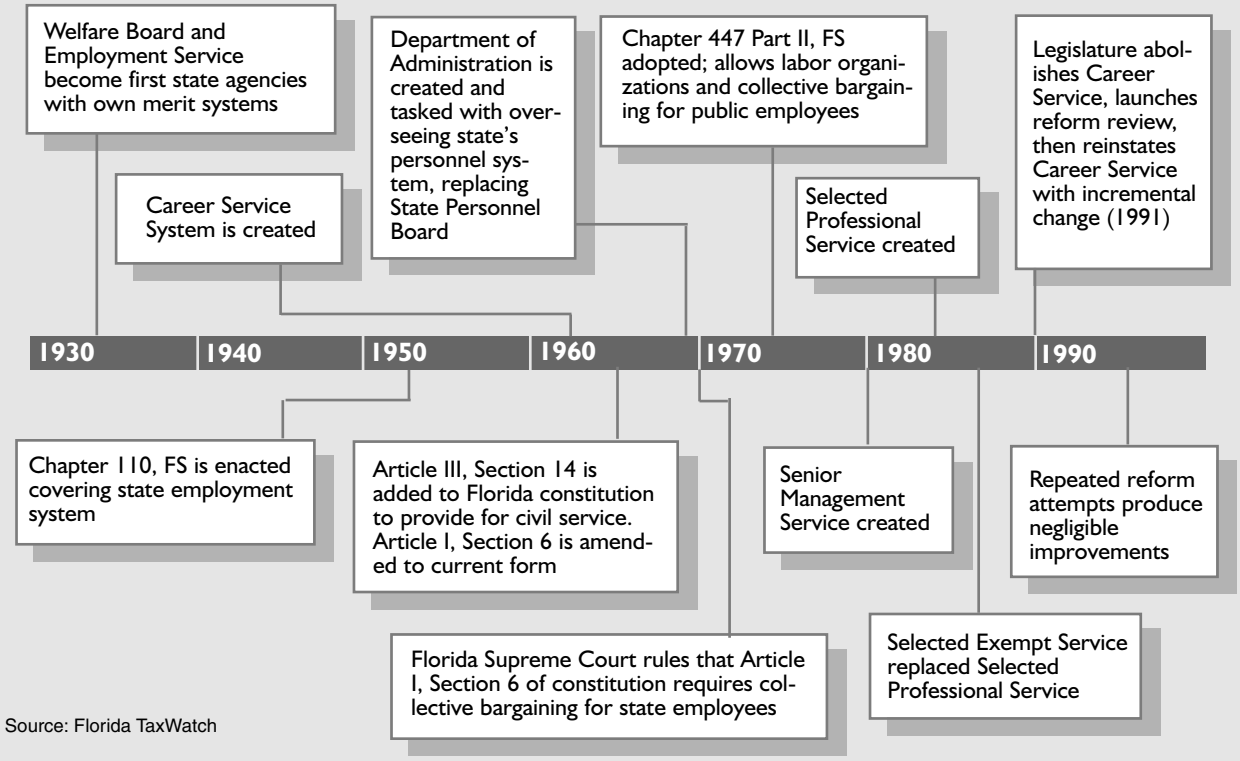
* Public sector average derived mainly from local government and other noncareer service state positions, with 2 to 8% of respondents in private sector
SOURCE: 1999 State of Florida Workforce Report; MGT of America Career Service Salary Survey 1999; McKinsey R&I

an enormous intangible cost/benefit, it decreases other forms of tangible compensation. Lower tangible compensation leads to lower performance expectations – among the supervisors and the supervised alike. In addition, the protected-status-lower-pay-lower-performance dynamic encourages an adverse selection process, in which talented employees will tend to go elsewhere for higher pay and more interesting jobs and less talented individuals will tend to stay on. To a large extent, we get what we pay for.

It is also worth noting that some benefits traditionally provided by government employment are less attractive to today's more mobile and generally more risk-tolerant employees than to previous generations. For many younger workers, defined benefit retirement plans, which pay retired employees a specified percentage of their final salary (or average of several years' salaries) on a regular basis, require too many years to vest and are not portable. In response to this trend, Florida has lowered the vesting time on its defined benefit retirement plan to 6 years, from 10, and created a defined contribution plan, which allows employees to self direct a percent of their salary, contributed by the employer, into a variety of investment products. This plan offers portability and one-year vesting. Both of these adjustments should help with recruitment over time.

EXHIBIT 9

EVOLUTION OF FLORIDA'S CIVIL SERVICE SYSTEM



Source: Florida TaxWatch

To compete for workers over the long term, state government will have to develop and communicate a clear, compelling value proposition to potential employees wanting to make a difference. And it will need to deliver on that promise, enabling them to perform up to their abilities.

Protected-status employment is no longer necessary

Protected-status employment in Florida Career Service dates from 1967, though the current core statutes providing for Florida's civil service system were enacted in 1955 (Exhibit 9), an era very different from today, when patronage and discrimination were significant issues nationwide that required redress. These statutes were enacted with good reason and honorable intentions – to foster good government – but they were designed to address issues for which we have other solutions today.

• **Patronage and abuses of power were a major problem in the past.** Patronage has long been a feature of the American political system, and has served a construc-

tive purpose, providing elected officials with trusted deputies. Its extensive use in the 19th century, however, led to frequent abuses of power, including favoritism toward family, friends, and political and financial supporters, and discrimination against minorities, women, and political opponents. The absence of systems for recruiting and hiring accentuated patronage's worst features, making it too easy to hire on a first-come or highest-bidder basis. By the end of the century, civil service reform had begun at the federal level, with the Pendleton Act (1883) establishing a federal civil service system. The objective was to protect competent, professional administrators whose continued presence in their jobs would ensure that the government could function effectively during and after changes in administration. Despite the federal-level reforms, it took as much as 50 years and well into the 20th century for some states to join the movement.

• **Other protections available today.** Some might fear that dismantling protected-status employment would re-ignite old abuses. This fear is not justified. A whole body of federal and state statutes and associated case law – such as federal and state civil rights laws, whistle-blower protection acts, state conflict of interest statutes, and the Americans with Disabilities Act – exists today where little was in place in 1955, when Chapter 110, FS was enacted (Appendix, Exhibit 2). In addition, the sheer size of government today and the specialized nature of many of the services it provides make it extremely unlikely that a change of administration could lead to significant replacement of employees. Furthermore, today we have a much higher level of public interest and expectation of greater performance and propriety, which have led to greatly elevated levels of media scrutiny (Chapter 119, FS (Public Records Act) and Section 286.011, FS (Sunshine Law)). Prior abuses could not recur today because these legal protections and the current atmosphere of openness make it virtually impossible for an employer – public or private – to mistreat its employees with impunity.

CHAPTER 2:

Why Past Attempts to Reform Career Service Have Failed

Over the past fifteen years, many bi-partisan government commissions and non-partisan government research institutes have called for reforms to Florida's Career Service, and Florida has made several earnest attempts (Appendix, Exhibit 4). While some of the initiatives have been very broad and sweeping in their intent, none has been fully implemented, and none has been fully successful. Despite delays and inconsistent support, they have resulted in some changes in law and rule, but these changes have been minor and have not substantially affected the culture, consequences, or accountability of how Florida's government employees serve the taxpaying public. With the exception of House Bill 707 in 1998, the reform attempts have not attacked the problem in the right way: they have left the root of the problem – Chapter 110, FS and the attendant rules and regulations – in place. While it is not unusual in public management reform that an initial attempt does not succeed, the frequency of these attempts and their lack of success have created an unfavorable setting for a new effort.

Several factors have contributed to this decade and a half of unsuccessful reform: too little sustained attention from the governor's office, too much attention from and variable decision making by the legislature, opposition by public sector unions, and no real proponent or advocacy group to lobby in support of the change. Any new initiative will have to overcome the perception that Career Service is resistant to or even unable to change. And it will need consistent attention from the governor's office, with on-going support from the legislature.

SUMMARY OF FINDINGS

The protected-status model for government employment embodied in Florida's Career Service undermines the government's ability to function effectively. Despite having many good, conscientious individuals in its ranks, Florida's Career Service is a manager's nightmare. Recruiting, hiring and dismissing employees is so difficult that managers have difficulty doing their job – managing. Add in unpredictably funded and widely distributed pay allocations and motivating employees to perform well becomes almost impossible. Without good managers and well-motivated employees, state government cannot hope to achieve the mandates of its citizens and address the challenges of the future.

It is important to note that today 30 percent of Florida's state employees are outside the Career Service and are employed at-will – without adverse consequences. In addition, a number of governmental entities within the state are already at will, including Lee County, the cities of Clewiston, Belle Glade, and Haines City, and the Southwest Florida Water Management District to name a few. Furthermore, the states of Texas and Georgia and the U.S. Postal Service have at-will employment. It is time for Florida's state government to adopt the practice for all of its employees. After all, productive state employees don't need protected status, and under-performers don't deserve it.

CHAPTER 3:

Modernizing Florida's Career Service: Recommendations for a Fresh Start

Raising the level of performance in Florida's state government will require a comprehensive change effort sustained over a number of years. Changing the employment model from protection to performance will be an immense undertaking, requiring many people to alter deeply entrenched attitudes and familiar habits. But this reform has the potential to yield significant benefits – to the employees themselves, other members of the government, and to all the citizens of Florida.

The protected-status approach to employment and Chapter 110, FS are key stumbling blocks in the path toward improved performance in state government. Past reform attempts have achieved little impact largely because they did not address the root of the problem. Florida needs to take a clean-sheet approach to reform. Repealing Chapter 110, FS and its associated rules and regulations offers two advantages: the legislative process is an appropriate and legal way to remove the property right created by Career Service (Exhibit 10), and it will serve as a signal event for a broad organizational transformation of state government aimed at lifting performance and productivity levels toward those in the private sector. The goal for this comprehensive effort will be to enable the development of a new, energetic, creative, more entrepreneurial organizational culture within all levels of Florida's state government.

Doing this will require three broad sets of coordinated actions:

EXHIBIT 10

1. State legislature can terminate property rights*

Legislation that creates a property interest by a personnel act restricting discharge to "just cause" can be changed by the Legislature. Legislative process constitutes all the process employees are "due"

2. Property right can be changed back to at-will status**

Movement from at-will to for-cause employment and back again is permissible, so long as return to at-will is with due process (i.e., a hearing)

3. Employer can change at-will status***

Employer can change employment status of existing employees to at-will employment, if

- Employees are given reasonable notice and chance to be heard
- The change is in the public interest and not taken to single out and discharge particular employees

* Gattis Vs, Graveti, 806F. 2d (8th Cir. 1986); State vs. Swank, 12 So. 2d 605 (Fla. 1943) ** Betts vs. Cith if Edgewater, 646 F. Supp. 1427 (M.D. Fla 1986) *** Peterson vs. Atlanta Housing Authority, 998 F. 2d 904 (11th Cir. 1993)

1. Developing a new legal framework that enables at-will employment for all of Florida's state employees.

• Write new legislation to repeal Chapter 110, FS and create its replacement. The replacement legislation will need to:

– Make the employment status of all state employees at-will

– Authorize credible, ongoing group and individual performance-based bonus systems that move away from across-the-board pay rewards and allow managers the flexibility they need to attract and differentially reward valuable, talented employees.

• Draft the necessary administrative code to make the new laws practical and implementable. Failure to provide employees, especially the managers and supervisors, with clear guidelines and training in how to manage the state's human resources differently in the future will inevitably result in a perpetuation of the existing inefficient, unproductive system. For example, the FAC will need to

• Eliminate the practice of "bumping," and begin retaining workers primarily on the basis of performance rather than seniority. If the planned 25-percent reduction in the state workforce is to go ahead, while providing the same or better service, the practice of bumping will have to be abolished. Only then will state government be able to consistently retain the right people for the right jobs.

• Allow for performance assessments and job descriptions that reward desirable behaviors as well as accomplishment of particular tasks, enabling employees to be assessed and rewarded for their ability to exceed their job descriptions, as work situations warrant.

• Review collective bargaining agreements, particularly the master contract between the State of Florida and the Florida Public Employees Council 79 of the American Federation of State, County, and Municipal Employees, which is set to expire on June 30, 2001. During contract negotiations, it will be critical to ensure that the provisions of the collective bargaining agreement are consistent with the new performance model and do not become a replacement for the out-dated provisions of the administrative code.

2. Reviewing how Florida compensates state employees in hard-to-fill and key management and positions, to ensure that these positions are appropriately and competitively paid and that government can attract and retain the talent it needs.

3. Launching the organizational transformation within key agencies, to foster a new results- and service-oriented organizational culture that accepts risk taking and focuses on getting the job done efficiently and effectively. This effort will require:

• Developing a new set of management systems, e.g., performance assessment and discipline, in line with the new law and administrative code. Increasing manager discretion can work only if it is accompanied by increased manager accountability.

• Communicating new employment expectations to employees, emphasizing what is changing, why it is changing, what it means for the employees, and why it is positive for them and for the taxpayers they serve. Employees will need to know what they are expected to do differently, as well as how they will benefit from broader pay bands, higher performance incentives, and greater autonomy.

At the same time, we would urge the Governor to include on his agenda the actions needed to launch and sustain this initiative:

• Initiate discussion of the changes with the relevant stakeholders, including civil service employees and their collective bargaining representatives and labor organizations.

• Rally bipartisan support in the legislature.

• Develop appropriate replacement legislation for introduction in the Spring 2001 legislative session.

* * *

With sustained effort and visible commitment to change, Florida can transform its state government and lift its level of performance toward the standard set by the private sector. In a performance-based government workplace, everybody wins. Truly merit-based pay will encourage and recognize innovation and higher performance, while workers will continue to have all the basic protections against unfairness, discrimination, and patronage that they have today. Fairness will be restored, because personnel decisions will be evaluated based on performance, not on arbitrary factors such as length of service. Flexibility in pay and mobility will enable government to recruit the best and brightest from the private sector. State employees who excel in their work will receive greater recognition and compensation than they do today. Their productive innovations will improve worker morale and productivity, because there will be tangible benefits to good performance. Managers will have the flexibility to reward outstanding performance, and more flexibility to dismiss low

performers. They will be able to make hiring and firing decisions within a reasonable period of time and at a reasonable cost. This flexibility will encourage them to act, rather than to avoid acting. In all, the streamlining of processes and practices will enable government to respond to taxpayers more quickly and efficiently. It is a goal worth fighting for.

The Council stands ready to work with the governor's office, the legislature, Career Service employees and their collective bargaining representatives, and other interested parties outside of government to find solutions that will enable state employees to be more productive and be compensated competitively and appropriately. The Council of 100 firmly believes that reforming Florida's Career Service will be a critical enabler for transforming how the state government of Florida operates, and will enable state employees to achieve new levels of collective and individual performance. Although implementation will require sustained attention, especially from the governor's office, we are convinced that the benefits will far outweigh the costs. The time for this reform has come.

APPENDIX

APPENDIX EXHIBIT I

FREDERICK B. KARL OPINION

October 31, 2000

The Florida Council of 100, Civil Service Reform Task Force
C/o Charles T. Ohlinger, III
6200 Courtney Campbell Causeway, Suite 560
Tampa, FL 33607

Dear Sirs:

We have been informed that a task force has been organized to make recommendations for legislative action with respect to the constitutional status of the state's civil service system. Specifically, you are concerned about the constitutional issue of changing the law so as to convert some or all public employees from a protected status to employment at will.

Fundamentally, there are two provisions in the Constitution that must be considered. Article III, Section 14 of the Constitution of the State of Florida provides:

> By law there shall be created a civil service system for state employees, except those expressly exempted, and there may be created civil service systems and boards for county, district or municipal employees and for such offices thereof as are not elected or appointed by the governor, and there may be authorized such boards as are necessary to prescribe the qualifications, method of selection and tenure of such employees and officers. (Emphasis added.)

Proceeding under the authority of Article III, Section 14, the Florida Legislature has created a whole panoply of statutory protections and procedures for public employees. The employees are guaranteed additional rights by Article I, Section 6 which provides:

> The right of persons to work shall not be denied or abridged on account of mem bership or non-membership in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike. (Emphasis added.)

Once a person becomes an employee of the State of Florida he/she may acquire a property right in a position or receive a contractual right as a result of collective bargaining, and those rights are protected by the first article of the Constitution, includ-

ing the right to due process guaranteed by Article I, Section 9 of the Constitution, and the Constitution of the United States.

It should be noted that there is no provision of the Constitution that prescribes the terms of the mandated Civil Service System for employees, nor the permissible terms of the collective bargaining agreements. The constitution does not prohibit "at will employment." We find no judicial opinion that requires "a civil service system" to provide property interests or property rights in any position in state government. Accordingly, we are of the opinion that the Florida legislature may satisfy the constitution by crafting a civil service system that may include such provisions as a merit system under which employees are selected on the basis of qualifications or fitness, job classifications, pay plans, equal employment opportunity and the like, and may provide that all positions within the state government shall be "at will employees".

As to incumbent employees, the legislature, acting under the authority to exempt certain employees from the civil service system, has exempted many of those who hold management supervisory positions and made them at will employees. The question of whether that category could be broadened was settled by the Supreme Court of Florida in 1987 in the case of Department of Corrections v. Florida Nurses Association, 508 So.2d 317. That opinion addresses certain 1985 legislative acts that purported to exempt from the career service system those physicians employed by the DOC and HRS, as well as attorneys. One of the acts created a new category of state service called the selected professional service (SPS) into which the exempted attorneys and physicians were included. In holding that the legislative acts may be implemented, the court said:

> The reclassification of professionals into a selected professional service reflects a policy decision of the legislature.
>
> And
>
> A tenured employee's right to continue employment during good behavior is con tingent upon the continued existence of the employment. Any expectation that career service or any particular position therein will exist for infinity is at most a mere hope. Implicit in the employment arrangement is the possibility that one day the legislature may consider such employment no longer consistent with the public welfare.

An important caveat is that there should never be a bad faith subterfuge to discharge or deny rights to an employee or group of employees in violation of civil service rules.

Any attempt to make all incumbent employees, who now enjoy contractual employment rights, implied contractual rights, or who have acquired a property interest in their employment situation to at will employees will have to provide the

employees with due process. There are several significant cases speaking to the termination of employees who have acquired property rights in their jobs. The Supreme Court of the United States in Cleveland Board of Education v. Loudermill, 470 U.S. 532, 105 S.Ct. 1487 considered the right of the employees to due process of law and said:

> Property interests are not created by the constitution, "they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law . . ." Board of Regents v. Roth, 408 U.S. 577, 92 S.Ct. 2709. See also, Paul v. Davis, 424 U.S. 693, 709; 96 S.Ct. 1155, 1164; 47 L.Ed.2d 405 (1976). The Ohio statute plainly creates such an interest. Respondents were "classified civil service employees," Ohio Rev.Code Ann. §124.111 (1984) entitled to retain their positions "during good behavior and efficient service," who could not be dismissed "except . . .for . . . misfeasance, malfeasance or nonfeasance in office," §124.34. The statute plainly supports the conclusion reached by both lower courts that respondents possess property rights n continued employment.

That case was cited by Florida's First District Court of Appeal in Simmons v. Department of Natural Resources, State of Florida, 513 So.2d 723.

The due process requirements may be satisfied by the legislative process, see Gattis v. Gravett, 806 F.2d 778, (8th Cir. 1986); wherein the court, citing the U.S. Supreme Court in Atkins v. Parker, 472 U.S. 115 (1985), held:

> While the legislative alteration or elimination of a previously conferred property interest may be a "deprivation," the legislative process itself provides citizens with all of the "process" they are "due". … Thus the legislature which creates a property interest may rescind it, whether the legislative body is federal or state and whether the interest is an entitlement to economic benefits, a statutory cause of action or civil service job protections.

Contracts developed through collective bargaining as authorized by Article I, Section 6, cannot be unilaterally terminated by legislative action, but may be allowed to expire at the end of the contract term.

Summary

In view of the foregoing we are of the opinion that:

I. In the absence of contractual provisions or provisions of a collective bargaining agreement, the legislature may abolish positions covered under the career service program and re-establish them in a new status that is not subject to the career service requirement of termination only for cause.

II. The legislature may broaden the group of employees who hold management

and supervisory positions which are exempt from the provisions requiring termination only for cause.

III. We find no absolute prohibition against the legislature making all who work for the state "at will employees." However, opinions of the federal courts recognize employees' entitlement to constitutional due process where they have acquired property interests in their employment situations, and that due process must be accorded through the legislative process or otherwise.

Sincerely,

Frederick B. Karl
Annis, Mitchell, Cockey,
Edwards & Roehn
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22nd Floor
Tampa, FL 33602

APPENDIX EXHIBIT 2

FEDERAL WORKPLACE PROTECTIONS

1935	National Labor Relations Act (29 USC 158) makes it unlawful to discriminate, to discourage, or encourage membership in or support of a labor organization, provides for collective bargaining
1936	Hatch Act bars public employees from political activity on the job, but bars dismissal for political activity outside work
1938	Fair Labor Standards Act (29 USC 201 et seq.) stipulates minimum wage and overtime rules
1963	Equal Pay Act (29 USC 206(d)) bars unequal pay based on gender for equal work
1964	Title VII of Civil Rights Act (42 USC 2000(e) et seq.) prohibits discrimination in compensation, terms, conditions, or privileges of employment on basis of race, color, religion, sex, or national origin; also prohibits retaliation for making a claim
1967	Age Discrimination in Employment Act (29 USC 621 et seq.) prohibits arbitrary age discrimination, promotes employment of older persons based on ability rather than age
1968	Garnishment (15 USC 1674) – individuals with one or more garnishment for one debt are protected against discharge
1970	Occupational Safety and Health Act (29 USC 651 et seq.) authorizes standards for safe and healthful working conditions and provides for penalties for violating set standards
1972	Equal Employment Opportunity Act extends civil rights protection to employees of state and local governments
1974	Employee Retirement Income Security Act (29 USC 1001 et seq.) requires employers to properly administer employee benefits plans
1978	Civil Service Reform Act protects whistle-blowers in government
1982	Veterans Job Training Act (29 USC 1721) provides employment and job training programs for veterans in public and private employment
1988	Worker Adjustment and Retraining Notification Act (29 USC 2101 et seq.) stipulates that employers with 100 or more employees must provide 60-day advance notice of plant closings or mass layoffs or pay in lieu of notice
1988	Employee Polygraph Protection Act (29 USC 2001 et seq.) bars private employers from requiring employees to take, using the results of, or discriminating against an employee on the basis of a polygraph test with limited exceptions
1989	Whistle-blower Protection Act (5 USC 1211 et seq.) provides for Office of Special Counsel to receive and review disclosures of illegalities, gross mismanagement or waste of funds, abuse of authority, or substantial and specific danger to public health and safety, and forward disclosures as appropriate to Attorney General or agency heads
1990	Americans with Disabilities Act (42 USC 12101 et seq.) prohibits arbitrary discrimination based on physical or mental disability, which includes AIDS or being HIV-positive, and requires reasonable accommodation
1991	Civil Rights Act (42 USC 1981a) creates a right of jury trial in discrimination cases and provides for punitive and compensatory damages with caps from $50,000 to $300,000, depending on the size of the employer
1993	Family and Medical Leave Act (29 USC 2611 et seq.) requires employers with 50 or more employees to allow leaves of up to 12 weeks for family and health matters, with the right to return to same or equivalent position

Source: Interviews; Florida Statutes; Westlaw

APPENDIX EXHIBIT 3

FLORIDA STATE WORKPLACE PROTECTIONS

1935	Workers' Compensation Law (Chapter 440, FS) requires Florida employers to provide for benefits in the event of a workplace injury and assist in reemployment of injured workers; prohibits discrimination of retaliation against an employee who files or threatens to file a workers' compensation claim (Section 440.205)
1937	Unemployment Compensation Law (Chapter 443, FS) requires employers to contribute to unemployment reserves for workers unemployed through no fault of their own
1937	Section 115.07, FS bars employers from retaliating against an employee on the basis of service in the military reserves
1947	Section 295.07, FS provides veterans with preference in public employment and retention
1951	Section 104.081, FS prohibits employers from retaliating against an employee who votes
1969	Section 448.07, FS prohibits wage rate discrimination on the basis of sex for both public and private sector employees
1970	Florida Occupational Safety and Health Act (Section 442.001, FS et seq.) sets standards for safe and healthful working conditions and imposes penalties for violations
1971	Section 112.011 – individuals with convictions protected from employment denials (public sector only) unless the conviction was a felony or first degree misdemeanor and directly related to the position sought.
1974	Tucker Act (Chapter 447, Part II, FS) gives public employees the right to organize and requires that the state bargain collectively with their employees' authorized agents
1974	Section 40.271, FS prohibits retaliation or threats of dismissal by an employer against an employee for jury duty. Also Federal Law 28 USC 1875 (1978)
1978	Discrimination on account of sickle cell trait prohibited (Section 448.075, FS)
1979	Section 110.221 – Career Service employees have right to take up to 6 months unpaid parental leave
1986	Whistle-blower Act (Section 112.3187, FS) prohibits retaliation by public employer against an employee "who blows the whistle"
1990	Section 92.57, FS bars an employer from retaliating against an employee who testifies pursuant to a subpoena
1991	Whistle-blower Act (Section 448.101-448.105, FS) prohibits retaliation by private employer against whistle-blower employee
1992	Florida Civil Rights Act (Section 760.01, FS et seq.) extends federal protections similar to those provided under Title VII of the federal Civil Rights Act of 1964, but adds age (from the cradle to the grave), disability, and mari tal status; retaliation for making a claim is also prohibited
Various	An employer may be held responsible for damages to employees caused by intentional torts, such as negligent hiring; fraud and misrepresentation; defamation; invasion of privacy; intentional infliction of emotional distress; malicious prosecution; abuse of power; false imprisonment; tortious interference with an advantageous business relationship; assault; battery; and other "employment torts"

Source: Interviews; Florida Statutes; Westlaw

APPENDIX EXHIBIT 4

A HISTORY OF ATTEMPTED REFORMS

1986 **Florida TaxWatch** report Building a Better Florida recommends

- Systems improvements to redesign the architecture of state government
- Legislation to create a performance-based compensation and personnel system coupled with increased public management authority and accountability

1987 **Partners in Productivity**, a public/private partnership created by the governor's executive order and sponsored by Florida TaxWatch and the Florida Council of 100, calls for reform of the Career Service system. ts report concludes that, while the system succeeds in insulating government employees from major political changes and arbitrary management decisions, it creates enormous difficulties for state managers. Especially affected are those who must deal with a small number of protected-status employees whose unacceptable performance adversely affects day-to-day government work, as well as fellow employees. These troublesome individuals make improving productivity especially difficult. Demoting, terminating, and, in some cases, transferring them requires an extraordinary, time-consuming effort that typically accomplishes little

1991 **The Florida Taxation and Budget Reform Commission** recommends that

- The Administration Commission (governor and cabinet) be granted increased authority to consolidate divisions of state agencies
- Vacant funded positions be deleted if employees and managers voluntarily agree to participate in a productivity enhancement program
- Employee rewards and sanctions be based on measures of productivity and quality
- State agencies that exceed their performance measures and engage in best management practices be granted increased discretion

The recommendations meet legislative resistance and bureaucratic inertia and are not implemented

1991 **Career Service Reform Act**, a joint executive and legislative branch initiative, seeks to

- Improve motivation and productivity with a flexible reward and recognition system
- Improve workforce training and development
- Simplify rules and procedures
- Decentralize decision making
- Streamline organizational processes

The program as a whole is overshadowed by efforts to cut budgets and downsize the government; as a result, initial implementation is delayed 3 years and then never completed. Decision making is decentralized hurriedly in line with the bill, but without adequate support, creating enormous management and control problems. A Total Quality Management program to enhance productivity is created but never funded

1991 **Commission for Government by the People** (Frederick Commission) is initiated by executive order from Governor Lawton Chiles and Lt. Governor Buddy MacKay when they assume office. Chaired by Orlando Mayor Bill Frederick, it reports "Florida's Career Service system, like most civil service systems, has become a straight jacket on managers. Designed for an Industrial Era government of clerks and manual laborers, it long

ago became obsolete. Its job classification system is too rigid; its pay system does not reward high performers; and its 'bumping' system during layoffs makes it difficult to slim down state government without virtually destroying it... We urge the Legislature to ... create an entirely new personnel system to replace Career Service"

1992 **Partners in Productivity** sponsors a second task force on government performance, this one chaired by Florida Power & Light Chairman Jim Broadhead and consisting of 46 members of Florida TaxWatch and The Florida Council of 100. The task force report, Improving Florida Government's Performance, states: "Florida's Career Service laws and regulations should be further reformed to give state agencies the flexibility to adopt more efficient structures, choose and reward the best performers, discontinue unnecessary agency functionsand positions, and terminate in a humane way those who do not perform well"

1994 **Government Performance and Accountability Act** redirects the intent of the 1991 reforms, causing further turmoil in state agencies. Three conflicting messages about this bill go out to state employees:

- The bill is to make government smaller and cheaper
- It is to increase government performance
- It will let officials keep talking about reinventing government

Several provisions are partially implemented, notably:

- Performance-based budgeting, with agency, department, and individual targets, using productivity benchmarks and budget guidelines from the GAP Commission, which is then abolished in 1999. The system was piloted in two agencies and can be said to have had modest impact
- Performance-based financial incentives, which receive only nominal funding initially; it is not clear whether they still exist. However, without legislative allocations – without money to back them up – the awards prove meaningless

1994 **Personnel Reform measure**, adopted by the governor and cabinet, initiates minor Career Service System rule changes, which have not affected the culture, accountability, and consequences of how Florida's government employees and managers serve the tax paying public

1996 **The Career Service Pay-banding Act** seeks to create a statewide pay banding system. The system is to improve managerial discretion in granting performance awards and enhance the state's recruiting ability. By collapsing job classifications, pay ranges are broadened. Implementation is delayed initially. The program is then piloted in the Department of Transportation. In January 1997, the DOT reports to the Legislature and recommends an implementation plan for rolling out the program in other agencies, start ing in July 1998. The program is later suspended while a Competency-based System, in use in the federal government and other states, is reviewed

1999 **House Bill 707**, submitted by Representative Ogles, attempts to abolish the Career Service system, making all positions filled after July 1, 1998, unclassified (at-will) positions. It would allow "permanent" employees to retain their "permanent" service status, so long as they stay in their current "permanent" position. The bill is carried over to 1999, but is subsequently withdrawn.

Modernizing Florida's Civil Service System:

MOVING FROM PROTECTION TO PERFORMANCE

A Report from the Florida Council of 100

The Florida Council of 100
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