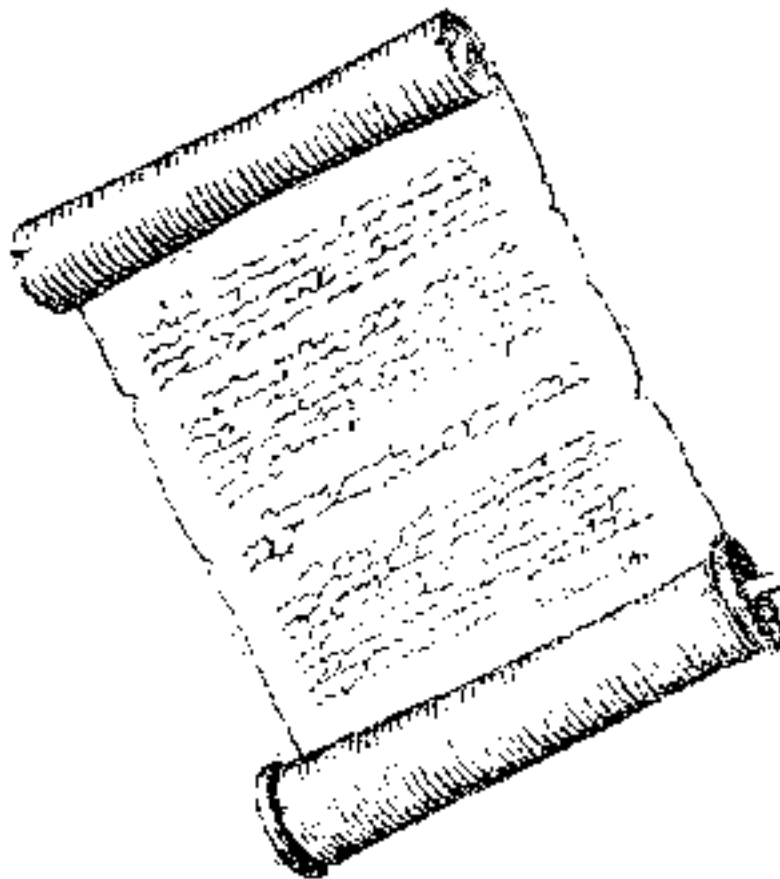


WAYNE COUNTY CARTER ISSUES . . .

Personnel Management

By Wilbur C. Rich



CITIZENS RESEARCH COUNCIL OF MICHIGAN

1666 City National Bank Building
Detroit, Michigan 48226

909 Michigan National Tower
Lansing, Michigan 48933

Report No. 271

March, 1981

WAYNE COUNTY CHARTER ISSUES...

PERSONNEL MANAGEMENT

by
Wilbur C. Rich
Associate Professor of Political Science
Wayne State University

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TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION.....	1
II. CHARACTERISTICS OF THE PERSONNEL SYSTEM	3
III. ADMINISTRATIVE PROBLEMS	4
IV. DECISION OPTIONS FOR THE CHARTER COMMISSION	7
Role of the Civil Service Commission.....	7
Reorganizing the Personnel Management Function.....	7
The Role of the County Legislative Body.....	9
The Impact of Collective Bargaining.....	9
Other Charter Initiatives.....	11
Position Classification.....	11
Manpower Plan	12
Senior Executive Service.....	12
Consultants.....	12
Restriction of Civil Service Commission Activities	12
Affirmative Action	13
Qualifications of Personnel Director and Deputies	13
The Limits of Structural Reform.....	13
 BIBLIOGRAPHY	 14

PREVIOUS ISSUES IN THIS SERIES

Elected County Executive/Chief Administrative Officer	- #265 - February 1981
The Historical and Present Role of County Government in Michigan	- #266 - February 1981
County Administrative Organization	- #267 - March 1981
Labor Relations Management	- #268 - March 1981
Financial Processes	- #269 - March 1981
The Legislative Branch	- #270 - March 1981

I. INTRODUCTION

This report on the Wayne County civil service commission describes the present personnel system and the decision options available to the charter commission.

Michigan's County Civil Service Law, Public Act No. 370 of 1941h as amended, states as its purpose: *to guarantee to all citizens a fair and equal opportunity for public service; to establish conditions of service which will attract officers and employees of character and capacity, and to increase the efficiency of the county governmental departments, commissions, boards and agencies, by the improvement of the methods of personnel administration.*¹

The issue before the charter commission is whether these goals – equal access, merit selection, efficiency – can be achieved with present administrative structures and personnel. Does Wayne County provide basic personnel services? Professor O. Glenn Stahl, a leading expert in public personnel administration, lists basic personnel services as follows:

1. Determine the coverage of merit procedures;
2. Develop sources of personnel supply, keep qualification requirements realistic, cooperate with educational institutions and occupational associations, and otherwise undertake the recruiting efforts necessary to attract able candidates to the service;
3. Examine applicants, develop lists of eligible candidates, and direct related operations in the operating departments;
4. Administer the use of eligible lists and the system of probation and reinstatement;
5. Establish standards for the duties, classification of positions, and where necessary, classify individual positions;
6. Administer pay schedules, and make or recommend adjustments based on factual analysis of competitive conditions;
7. Establish policies and procedures for movement of personnel by transfer and promotion, for attendance and leave, for conduct and discipline, for separation, and for appeals and grievances;
8. Develop guides and stimulate the best practice in supervision, in working conditions, in organization of tasks for motivational utility, in health and safety, and in performance evaluation;
9. Conduct in-service training that cannot be provided feasibly within individual departments and training in fields common to several departments;
10. Operate employee retirement, life insurance, and health insurance systems

¹ See Bibliography, page 14.

(unless these are provided from a higher jurisdiction);

11. Conduct basic and applied research in personnel measurement, in behavioral aspects of management, and in appraisal of the impact of personnel policies on productivity and morale;
12. Maintain a constructive practice of public reporting and public relations;
13. Consult or bargain with employee unions on personnel policy issues;
14. Take action on, or recommend to the chief executive or the legislative body, changes and improvements in personnel policy and practice; and,
15. Carry out all of these duties with full appreciation of and attention to the imperatives of the day -- social issues, equal opportunity, pending legislative interests or measures, and the inexorable requirements of the operating agencies of government.²

Can these functions be effectively and efficiently administered with a civil service commission form of personnel administration? In 1972, the National Civil Service League found that the Wayne County civil service commission was not performing these functions efficiently or effectively. In 1980, the Wayne County Efficiency Task Force confirmed the earlier findings of poorly administered personnel policies and recommended changes similar to those suggested by the 1972 report.³ Presently few, if any, of the recommendations of these reports have been implemented. Therefore, the charter commission has an excellent opportunity to reverse the directions of county personnel policy and make a significant contribution to strengthening personnel administration.

II. CHARACTERISTICS OF THE PERSONNEL SYSTEM

Civil service provisions cover and are intended to protect most of Wayne County's employees. There are approximately 6,000 county employees covered by civil service.⁴ The employees exempted from civil service provisions include: elected officials, persons appointed to fill elective offices, a deputy or assistant in each elective office, members of boards and commissions, chief assistant prosecuting attorneys, and court employees. Also, the civil defense director, corporation counsel and chaplains are exempt from civil service provisions.

Wayne County government enjoys the reputation of being among the highest paying public employer in the nation. To meet this payroll, the county spends approximately 88% of its budget on personnel items.⁵ Despite the county's reputation for more than adequately compensating its employees, its personnel system remains a model of duplicating, overlapping and redundant administration. The system has persistent

administrative problems and structural flaws which resist reform.

III. ADMINISTRATIVE PROBLEMS

There are a number of administrative problems with the present county personnel system.

A. Section 11(c), of the County Civil Service Law, grants the lay civil service commissioners the authority “to supervise the administration of civil service rules, hold examinations thereunder from time-to-time, giving notice thereof, prepare and keep an eligible list of persons passing such examinations and certify the names of persons thereon to the appointing officers of the several departments.”⁶

Apparently this section is being interpreted as granting the lay commissioners absolute and arbitrary power to set qualifying scores for examinations, determine which candidates passed the examination, dissolve eligibility lists and change job requirements to fit particular candidates. These actions are clear violations of the merit principle and the spirit of the civil service act. Supervision does not mean administration by committee. By involving itself in a day-to-day administration of the personnel system, the commission has compromised the reputation of the county employment policy. Employees perceive the commission as unfair, arbitrary and unreliable.

B. The commission’s selection policy indicates an excessive reliance on oral examinations for recruiting persons for high level administrative positions. Given the reputation of the commissioners, any oral examination will be viewed with suspicion by the candidates and public at large. Many people believe that oral examinations are often used as smokescreens for political patronage. Aside from being suspect and unreliable, there is very little research that supports the validity of oral examinations. The accuracy of such examinations depends too heavily on the skill and impartiality of the interviewers.

C. The background of the present lay commissioners suggest that they are amateur administrators. None of the commissioners has a personnel background nor has any of them been active in personnel reform movements. Yet they make policy affecting the welfare of county employees.

D. The county’s personnel policy is made by two separate agencies. The coordination between the civil service commission and the office of labor relations, leaves much to be desired. There is no formal consultation agreement between the personnel director and the director of the office of labor relations. Consequently, the departments often work at cross purposes.

E. County department heads are not consulted about work rule changes being debated in labor contract negotiations. The county does not have organized pre- or post-negotiation briefings for managers and supervisors. Yet these supervisors are

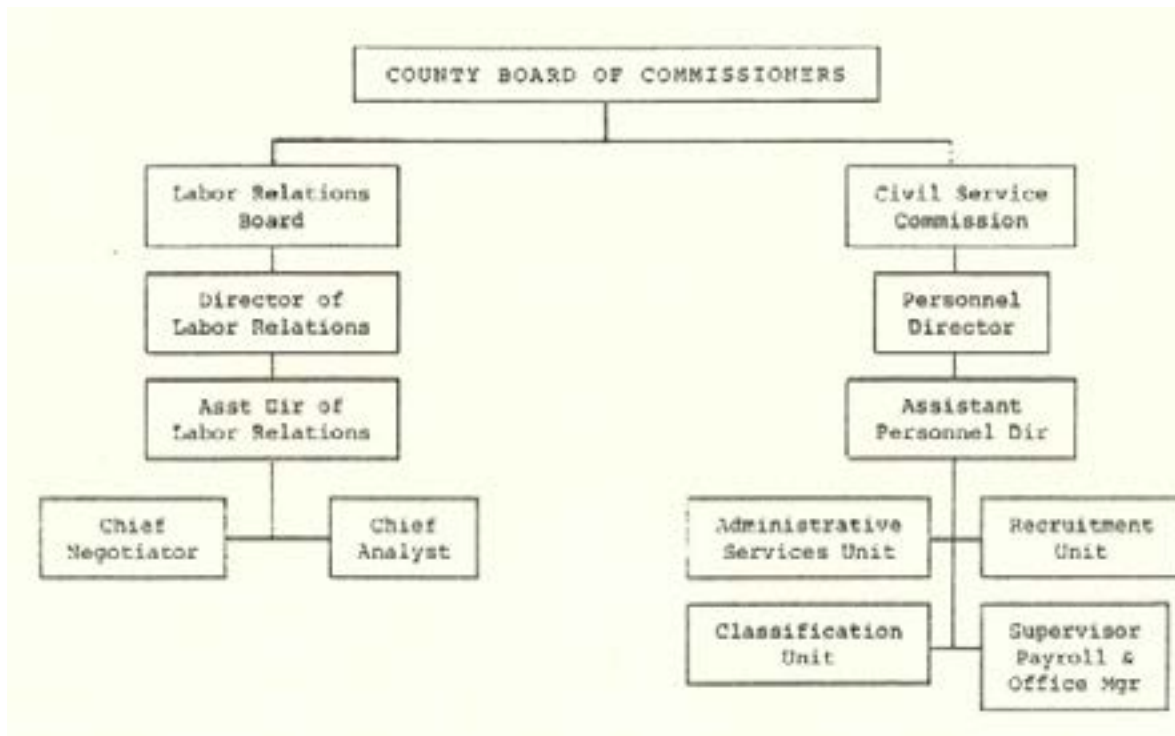
expected to administer the contract. The lack of consultation might be a reason supervisors and subordinates are constantly involved in grievance litigations.

F. The county's position classifications (i.e., matching occupation titles with duties and compensation scales) contains too many classes (876) relative to the number of employees (approximately 6,000). No graded salary plan exists; there is rather a system of setting different salaries for different classes. The system is replete with individuals performing the same functions in different occupation titles. Consequently, the position classifications and compensation policies do not conform to generally accepted principles of personnel administration.

G. Finally, Wayne County personnel policy is dominated by labor negotiations and civil service rule enforcement. Other personnel functions are neglected. For example:

1. Career development of employees is nonexistent.
2. There is no short-term or long-term manpower planning.
3. Statistics for the personnel department are not publicly available for 1978-80. The annual report has been temporarily suspended.
4. There is no policy for management training.
5. There is no systematic method of measuring changes in employee attitudes toward the workplace (i.e., continuous polling of workers). The grievance procedure, although an index, is insufficient for this purpose.

Consequently, the county does not have a civil service, it has a *swivel service*, a pliant one ready to turn in any direction to fit any purpose. It has no fixed principles or immutable laws.



These problems are, in part, caused by the structure of the personnel system. The present table of organization follows this structure:

Under Section 7 of the County Civil Service Law the county board of commissioners appoints three lay members to a civil service commission. The commission is empowered to appoint a personnel director under Section 9. The personnel director is secretary to the commission and chief examiner for the county.

The duties and powers of the commission are described in Section 12. These duties include examination, classification, recordkeeping, investigation, purchasing, appointment, removals and appeal hearings. Under the present civil service, the commission proposes and disposes of rules. However, this rulemaking is only part of the total personnel picture.

The office of labor relations, a parallel structure, also makes personnel rules. In effect, personnel policies are made by separate and unequal county agencies. Although possessing a smaller staff, the office of labor relations is stronger politically than the civil service commission. Negotiating collective bargaining agreements with employee unions allows it to create a powerful constituency. The civil service commission, on the other hand, has no outside constituency and is therefore weaker.

Since the civil service commission and its secretary/chief examiner (i.e., personnel director) are not a part of the labor negotiating process, they have been reduced to gatekeepers (i.e., recruiters). This gatekeeping function includes advertising, examination, certification and classification. Although these functions are considered crucial in most local governments, these are regarded as secondary in Wayne County. The real power and status is reserved for labor negotiations.

The division of responsibility between the office of labor relations and the civil service commission exacerbates the problems that several observers (e.g., 1972 National Civil Service League report and 1980 Efficiency Task Force report) believe create an inefficient and costly personnel system. Dual administration has also stimulated rivalry between the office of labor relations and the civil service commission staffs.

IV. DECISION OPTIONS FOR THE CHARTER COMMISSION

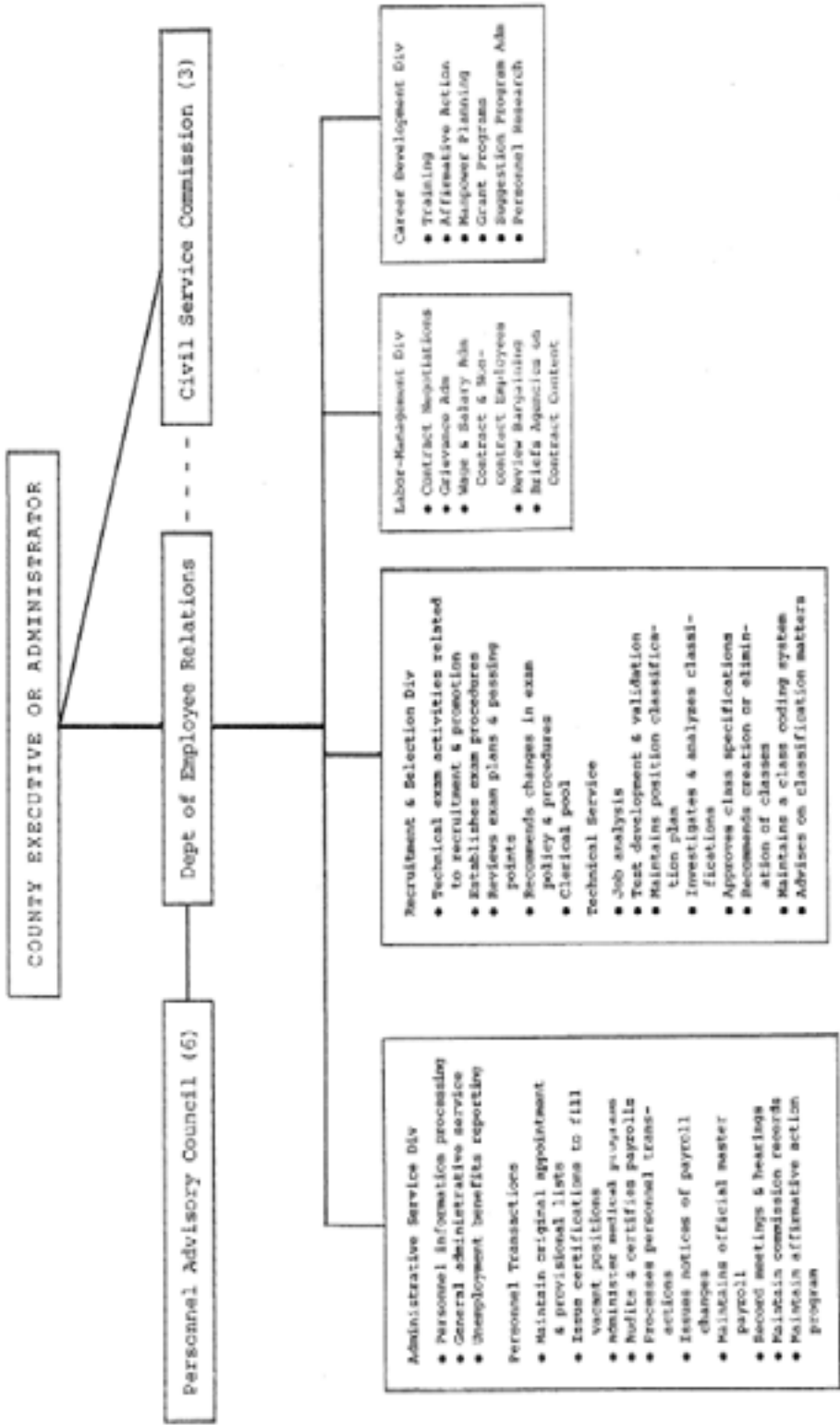
Role of the Civil Service Commission

To reiterate, many of the administrative problems of the civil service commission are traced to day-to-day participation of commissioners in the management of the personnel recruitment system. The commissioners consider themselves administrators and are directly involved in hiring, examination and certification procedures. These actions have severely compromised the credibility of the commission and confirm a 1970 National Civil Service finding that lay civil service commissions reflect “political expediency rather than requirements of good personnel administration.”⁷

The National Civil Service League’s solution to the propensity of lay commissioners to interfere with day-to-day administration is to abolish the civil service commission and replace it with a department of personnel. Under the league proposal, the department of personnel would include a personnel director who would appoint a citizen advisory board which would serve at the pleasure of the director. This proposal, based on a strong executive form of government, is designed to facilitate chief executive responsibility. The chief executive is made responsible for all personnel decisions and policies through his appointee, the personnel director. The citizen advisory board does not have an administrative role but advises the personnel director on technical matters. The citizen advisory board is not an appellate board for merit system abuse. The league recommends a hearing officer selected by the advisory board to perform this review function.

Reorganizing the Personnel Management Function

The Wayne County Charter Commission may elect to displace rather than replace the civil service commission. This change could be accomplished by a comprehensive reorganization of the civil service commission and the office of labor relations. This reorganization would create an overhead agency encompassing the two agencies. It could be called the department of employee relations, department of human resources development or department of personnel. The director of the new department would be appointed by and serve at the pleasure of the county executive. If possible, the appointment should be subject to confirmation by the county board of commissioners. The director would appoint four deputies to head the divisions of recruitment and selection, career development, labor relations, and administration. The director would select a personnel advisory board. The civil service commission would be appointed by the county executive or administrator, if possible with the consent of the county legislature. Its function would be that of a merit protection board, hearing appeals and investigating merit principle abuses. The personnel director would be a voting member of the civil service commission along with two lay members.



The new table of organization would be as follows:

The citizen personnel advisory council must be strictly a voluntary body with no compensation or office facilities. The council's purpose is to keep the county personnel director informed of changes in the personnel field in the county, state and nation. The council could be structured in such a way that citizens would consider it an honor to serve. The composition might include six members representing the federal office of personnel management, the State of Michigan department of civil service, Detroit department of personnel, a private sector personnel official, a member representing the other communities in Wayne County and one other public member. The council should be restricted to quarterly meetings but be kept informed of county personnel policy by the personnel director.

Another decision option is to decentralize the personnel function totally. Every agency, board and department would have its own personnel officer and facilities. The present personnel and labor negotiating staff would be a part of the executive staff of the county administrator and would serve as consultants to agency heads. The civil service commission would serve as a merit protection board. It would hear appeals of merit abuse and investigate agencies' compliance with civil service rules. In effect, the appointed county executive would supervise all personnel officers from his office. The charter would mandate that the appointed administrator take care that the civil service rules are faithfully executed.

The Role of the County Legislative Body

The charter commission may decide to grant the county board of commissioners oversight responsibility in personnel affairs. This responsibility might, if legally possible, take the form of requiring legislative advice and consent regarding nominees for personnel director and deputies and members of the civil service commission. The charter commission may require that the legislature establish a follow-up committee to assess the implementation of personnel reform, or it may establish a separate committee of citizens and legislators. The charter commission may require legislative approval of a manpower plan or simply require legislative comments and objections be noted in an appendix to a manpower plan.

In summary, the charter commission is free to assign an important personnel policy role for the board of commissioners. Before assigning such a role the charter commission members may want to debate the desirability of providing maximum administrative flexibility for the elected county executive or administrator against the traditional legislative checks and balances system. Whatever choice is made, the result will affect the making of future personnel policy.

The Impact of Collective Bargaining

Scholars, professional personnel administrators and civil service reformers have long

abandoned the notion that the public employee should not be organized or unionized. However, there is still considerable debate about the role of unions in the merit system. B. Helburn and N. D. Bennett say that in order to reconcile the conflicts with the unions and the merit system, three separate agencies are necessary: a merit system, collective bargaining and a centralized personnel department.⁸ The merit system agency would protect the merit principle in hiring and promotion. The collective bargaining agency would negotiate contracts and administer agreements. The centralized third agency would be a service agency to operating agencies. This interesting proposal may have been a source for the 1978 Federal Civil Service Reform Act. The effectiveness of this federal tripartite structure remains to be seen.

Protecting the merit system has become difficult and the federal courts have come to the rescue of local governments in times of peril. The Supreme Court ruling in *Elrod v. Burns* prohibits arbitrary dismissal but not arbitrary appointments.⁹ The Court of Appeals confirms its longstanding prohibition against party interference (i.e., party affiliation as a qualification for a job) with the merit system in *Shakman v. Democratic Organization* (1970).¹⁰ However, there seems to be no end to the methods used to circumvent the merit system. The union has replaced the political parties in their attempts to control government employment promotion practices, layoff policies and seniority rights.

In the last three years the Michigan Council 25, American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) has negotiated contracts which strengthen the role of seniority in promotion and layoff procedures.¹¹

Under the present contract a person with seniority needs only to make a passing score on a promotion examination to get promoted over an individual with less seniority but a higher examination score.¹² This system can give an unfair advantage to less qualified employees.

The contract also stipulates that if there is no eligibility list, then the job promotion must be offered to persons with the greatest amount of seniority and ability to do the job.¹³

Seniority also determines layoff policy.¹⁴ Although it is common that employees with the least amount of seniority get laid off first, the union contract includes a "bumping" procedure in which an employee with seniority in a high level job can, be transferred to a lesser job if he is qualified to do the job. The employee with seniority can "bump" the person with less seniority and in a lower job category from his position. This creates a management and employee problem when persons with one set of skills are bumped into positions requiring other skills.

The insistence on the seniority rule has often worked a hardship on minority workers, women and youth, who generally have less seniority. The Supreme Court recognized this problem regarding minorities and ruled in *Franks v. Bowman Transportation Company* (1976)¹⁵ that employees covered under Title VII should be given "fictional seniority" retroactive to the date of their original job application. This is necessary to guard against perpetuating original selection discrimination.

The charter may want to speak to the issue of seniority in promotion, layoffs and equal opportunities. The vehicle for this statement may be a declaration of managerial rights. The language of such a statement should not be conceived as an infringement of workers' rights to bargain. Presently, county negotiation teams are relatively powerless against assertion of seniority rights by unions. A charter statement may strengthen the negotiating team's ability to resist rigid seniority rules in future contracts.

Ironically, the federal courts tend to be supporting the union's attempt to impose private sector patterns of collective bargaining and trade unionism on government employment.

The charter commission cannot reverse this trend but it can accord more status and authority to management issues for the negotiating team.

The personnel department is basically in the human development business. The basic function is to integrate the personal needs of employees with those of the organization. Compensation and supervisor/subordinate disputes are a part of that process. Nonetheless, these important functions -- career development, training, benefit management, retirement planning, employment counseling have been upstaged by the more glamorous media-oriented collective bargaining process.

Increasingly, the department of personnel has been bypassed in favor of the office of labor relations. The department of personnel has lost its prestige and has taken a very negative attitude towards the encroaching office of labor relations. Labor relations directors by nature believe that most things are negotiable. Because they interact with labor leaders often, they become convinced that these leaders know more about personnel policy than their colleagues in the department of personnel.

The result is that management rights are ignored or easily negotiated away to achieve a settlement. *The charter commission may want to promulgate a set of guidelines protecting management rights and responsibilities in order to strengthen management's bargaining position.*

With the erosion of management rights, supervisors will find subordinates increasingly difficult to manage. Employees can easily threaten supervisors with grievance hearings. The problems of low productivity, morale and compensation can be attacked if the county can develop a coherent set of management policies which it is prepared to defend.

Other Charter Initiatives

Under the Michigan charter county act, Section 14(f), the charter must protect the existing rights of employees under civil service.¹⁶ The charter commission is prohibited from infringing on those rights or eliminating civil service status. However, this section also states that a charter cannot preclude future modifications of the system. It appears that the charter commission can modify the system as long as it protects the rights of those already covered by the old civil service system.

Position Classification. The charter has the power to mandate the establishment of a new position classification and compensation system for all new county employees. Union contracts and the charter county act prevent making a position classification and compensation system retroactive but a new charter does have the authority to provide for the promulgation of a new career and salary plan. Any such plan should be carefully negotiated with the unions. This proposal would have the effect of imposing a new system on an older one, but would modernize the existing system. Presently there are 876 position classes for the county civil service. Of those, 160 classes are utilized exclusively by the county road commission. Nonetheless, 716 classifications for approximately 4,000 workers is an excessive amount. The present system, which sets different salaries for different classes, is confusing, duplicative and costly.¹⁷ The county needs a graded salaried plan which regulates the way employees are assigned to duties and are paid. A new career and salary plan is indicated even if it means having old employees under one system and new ones under another. Otherwise, the county cannot hope to be able to control compensation and career development. Wayne County cannot afford to pay a hospital attendant \$19,940 plus COLA when other hospitals pay less. The situation is such that only a radical departure from old practices can prevent total collapse of the present system.

Unions can still recruit members and bargain under the new career and salary plan.

Manpower Plan. The charter commission can also mandate a manpower plan using the census and other employment indicators to forecast future manpower needs in the county. This plan would be revised every five years. The county chief executive or administrator could use such a plan in determining personnel ceilings, transfer policy, program terminations, etc.

Senior Executive Service. The charter may also create a senior executive service. The creation of a special management class would allow the county to institute a mechanism to recruit the best individuals from the classified service to serve as managers or deputies for appointed departments heads. This pool of classified managers will provide coordination and continuity for the departments. However, persons serving as deputies would not be protected by civil service rules and could be replaced by another classified manager in the pool or by someone from outside the county service. Once a manager is replaced his name goes back in the pool and retains his old civil service permanent rank.

Consultants. The charter commission could mandate that the personnel department hire outside consultants to reform the testing procedures in the county. These consultants could certify that all existing written and oral examinations are valid and reliable.

Restriction of Civil Service Commission Activities. The charter can restrict both the number of days the civil service commission can meet and its rate of compensation. Such restrictions will prevent interference with day-to-day activities of the personnel department. Wayne County civil service commissioners now receive a yearly rate of \$14,520. The charter can change the basis of compensation commensurate with changes

in the commission's duties. The commission reconstituted as a merit protection board probably requires only a monthly meeting.

Affirmative Action. The charter commission can accord charter status to the principle of equal opportunity for all county residents regardless of race, nationality, age and sex. It can charge the county executive or administrator and his or her appointees with obligation to develop an affirmative action plan commensurate with its manpower plan.

Qualifications of Personnel Director and Deputies. The charter can set minimum education and experience requirements for these critical posts (e.g., a master's degree in personnel administration or public administration and five years of experience could be required of all applicants).

The Limits of Structural Reform

Any hope of reforming the personnel system must start with reorganizing the administrative structures of the civil service commission. If the executive style personnel director is adopted and given the necessary administrative mandate, the county can expect significant change within the first year of the new system's operation. However, the county personnel system is still a major part of the political patronage network in the county. In any personnel system there are many hidden participants and entrenched interest groups. These individuals and groups will not remain silent while the new personnel director dismantles the network of relationships within the employment arena.

Consequently, structural changes are necessarily a first step, but rarely a sufficient one, for civil service reform. The charter commission may want to install a follow-up committee to determine if new personnel policies are being implemented in accordance with guidelines established by the charter.

The selection of a qualified personnel director is critical to the whole transition process. This role should be delineated by the charter in detail. It could mandate a national search for a director. A strong personnel director can make reform a reality.

Finally, the charter ought to state in clear terms the county's commitment to merit principles and affirmative action.

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