This critical review analyzed the impact of public service reform in the United States and implementation of at-will employment on public employees. Competing values and lack of trust in government has led to human resource reform that injects the private sector model into public service at the national and state level. States such as Florida and Georgia have reformed their personnel systems, removing many traditional employee protections and creating more flexibility by changing classified employee status to unclassified, broad banding, becoming more decentralized, altering the employee due process, and increasing at-will employment. Several common themes emerged from the articles, the researchers consider reform to be an attack on public service employees, and fear decentralization of human resource management reduces employee due process rights and the potential for a return of patronage due to corruption and lack of political accountability. Researchers warn civil service reform removes the ethical barriers that prevent corruption, opportunism, mismanagement, and ideological manipulation.

Selected Competencies

The critical review differentiated standardization and formalization of budgeting, personnel management, and accountability in public organizations that aren’t relevant in the private sector. The adoption of private sector ideals and at-will employment suggests market-based notions are the solution to social problems. The problem with this philosophy is that it fails to differentiate profit making organizations from those responsible for providing public good.

Completion of this critical review required extensive research on at-will employment and the ethical and legal responsibilities of public organizations and their impact on equity, resource development, and strategic decision-making. Public agencies are held to high accountability standards requiring transparency, due process, and check and balances systems. These requirements are missing from at-will employment policies and private sector management techniques which may be to blame for recent business scandals.

The main goal of this review was to identify a current issue impacting human resource administrators and to present an unbiased recommendation. The at-will employment issue highlights the evolving role, scope, significance, and comparative global perspectives of public management and the problems involving leadership orientation and organizational structure.
A Critical Review of Public Service Reform
and the Implications of At-Will Employment

Amanda Reedy

James Madison University
Introduction

The issue of public service reform has come to the forefront at both the national and state level. This critical review analyzes three journal articles that examine the effects of current reform on public service and the implications of at-will employment. Although the articles discuss different concepts in relation to civil reform a common theme emerges, the authors boldly warn against civil reform. Is the reinvention of the civil service personnel system an example of history repeating itself and is America destined to return to the spoils system? In “Bringing Back Boss Tweed? Could At-Will Employment Work in State Government and, If So, Where?” Robert Maranto and Jeremy Johnson identify variables that impact civil reform in each state and the negative outcomes, cautioning against state reform. In “A Broader Look at the “Accountability” Movement Some Grim Realities in State Civil Service Systems” Steven W. Hays and Jessica E. Sowa discuss four trends associated with decentralization and express concern for the future of public servants. Due process rights, job security and protection from patronage have been replaced with at-will employment, all-powerful management and pressure tactics. In “Civil Service Reform, At-Will Employment, and George Santayana: Are We Condemned to Repeat the Past?” Russell L. Williams and James S. Bowman critique civil service reform in the state of Florida using the historical perspective of George Santayana.

Background

In the 1800s during Andrew Jackson’s presidency, civil service in the United States began to run on the spoils of the system resulting in employment security and promotion for those exhibiting party loyalty. As a reward for patronage party supporters, friends and relatives were often appointed to government positions as means of ensuring their support and increasing their incentive to continue working for the party regardless of qualifications or ability. This
system was coined after the popular phrase “to the victor goes the spoil” by New York Senator William L. Marcy (AKA Boss Tweed) (Callow, 1966). The assassination of President James A. Garfield and public outrage over corruption brought the dangers of patronage to light; two years later passage of the Pendleton Civil Service Reform Act introduced the merit system. Under the new system, government employees were selected based on their performance on competitive exams and it became illegal to fire or demote an official based on their political ideology. The merit system created an ethical barrier protecting employees from unfair treatment and safeguarded social equity. Currently, competing values and an increase in the lack of trust in government has led to a human resource reform that interjects the business model into public service at the national and state level. States such as Florida and Georgia have reformed their personnel systems, removing many traditional employee protections and creating more flexibility by changing classified employee status to unclassified, broad banding, becoming more decentralized, altering the employee due process and increasing at-will employment.

Summary

A summary of the articles shows that the first, “Bringing Back Boss Tweed? Could At-Will Employment Work in State Government and, If So, Where?” acknowledges the successful implementation of at-will employment at the national level while discussing several variables used to identify risky civil service reform at the state and local level. Although tenure was once important, appointment power has moved from political allegiance to the president. Increasingly presidents have become more interested in leaving a policy imprint, therefore focusing on appointees political expertise verses political credentials. While flexibility in the U.S. civil service increases accountability, “the most notable spoils scandals occurred in state and local governments with less moralistic political cultures, less political competition and less media
scrutiny” (Maranto & Johnson, 472). Maranto and Johnson point out that arguments supporting reform at the national level don’t hold water when applied to state and local governments due to three independent variables. The first variable identified by the authors is patronage demand; state political cultures vary from individualistic to moralistic, individualistic states tend to have a higher tolerance for corruption increasing the risks to public service when additional flexibility is awarded. Second are political environment variables, according to the authors major media outlets apply more scrutiny to politicians abusing patronage, suggesting reform in states that lack a major newspaper is risky to civil service. Additionally, competition is critical to political accountability, reform in one-party states results in greater risk to public service. The third variable, bureaucratic capacity identifies an organization’s dedication to their mission of public service and the administrative capacity to ward off patronage demands. Reforming civil services in states with less effective public bureaucracies is risky.

Maranto and Johnson used measurements of the three variables to create two scales identifying states that should and should not reform. Patronage demand variables were measured based on corruption and traditional party organization. Since political corruption is difficult to measure the authors chose to use Boylan and Long’s survey results. State house reporters were surveyed about corruption in state government to measure state corruption; the measurement has high face validity. To measure traditional party organization (TPO) they chose to use the TPO index developed by Mayhew, the measure has high face validity and indicates more risk in reform with high TPO states. The findings indicate a relatively strong correlation between corruption and TPO. To measure political environmental variables the authors reviewed the media capacity and party competition for each state. Media capacity was determined based on the 150 largest daily newspapers in the U.S. with circulation over 80,000 and party competition
was calculated using the mean percentage of seats held by the minority party in the two houses of the state legislature. Lastly, Maranto and Johnson assigned letter grades from A- to F on the financial management capacity, capital and infrastructure management capacity, human resources management capacity, information technology, and managing for results for all fifty states. States that did well in one area were more likely to do well in the others. A mean letter grade was calculated for each state and the measure has high face validity but did not correlate with any other variable. Each variable was weighted equally and using the results, two summary indexes of preconditions of successful civil service reform were developed. The authors conclude that states with more individualistic traditions are more high-risk for reform and warn that most states should not consider reforming their public service systems.

The second article, “A Broader Look at the “Accountability” Movement Some Grim Realities in State Civil Service Systems”, also focuses on the implications of civil service reform and potential concerns. Suspicion and distrust surrounding the government has led to the targeting of public personnel systems and the challenging of the traditional human resource management (HRM) models. Hays and Sowa discuss previous research on the decentralization or reinvention of HRM and the factors that contribute to implementation and proposed benefits but point out these studies have neglected to explore the impact of current HRM practices on public employees.

To obtain this data, the authors decided to conduct a study to determine if the implications of the changes to the terms and conditions of civil service as evidenced in Florida and Georgia are common throughout the U.S. Highly informed reliable representatives from each state were contacted via telephone during a 15-week period and surveyed using a patterned interview template. Recent changes to the states’ personnel system including retention and
accountability measures, procedural protections and attempts to change position definitions or removal of classified service were the focus. The findings confirm HRM reform is widespread, and the swing from tenure to at-will employment erodes at the due process rights of civil servants and produces many negative corollaries. Exploration of the data resulted in the emergence of four interrelated trends. The first trend discussed is decentralization of HRM; only 8 states retain a traditional merit system, 16 report polarized decentralization and 24 are moving towards decentralization. As a result of this reinvention, public service employees have lost protections and rights as the power has shifted to supervisors and agency personnel. The second and most dramatic trend is the declassification or uncovering of civil servants. Declassification opens the door for at-will employment, reduction in employee protections and grievable issues. The third trend discussed restrictions on due process of rights, weakens job security and empowers supervisors “depending on the state, most other matters – including reassignments, reclassifications, transfers and the like – are either nongrievable or eligible only for internal review” (Hays & Sowa, 110). The fourth and final trend uncovered through the study is the election of activist governors. Activist governors typically come from the business sector and have little or no background in civil service, but have promised to make changes necessary to improve their state bureaucracies. The authors cite many examples of state governors making appointment changes as a means to implement policy agendas. They conclude with a warning, the reinvention of HRM models has increased patronage, misuse of supervisory power and loss of recruitment assets with diminished employee rights, weakened relationships between seasoned public servants and veteran legislators.

Article three “Civil Service Reform, At-Will Employment, and George Santayana: Are We Condemned to Repeat the Past?” focuses on the current issues of reform aimed at the
corporatization of government while interlacing the writings of immigrant philosopher George Santayana. Williams and Bowman highlight the problems associated with the spoils system (witnessed firsthand by George Santayana) and the analysis that led to implementation of the merit-based system. Their concern with current reform is the openness to at-will employment which historically was rejected and the absence of an ethical context to monitor government and guide employees. With the goal to “run government like a business, experience taught reformers of yesteryear to keep the spoilsmen out while those of today, using the same justification, invite them in” (Williams & Bowman, 69).

Using a case study the authors illustrate the installation of “Service First”, Florida’s personnel service reform system. Service First redesigned public service employee recruitment, classification and compensation, and performance appraisal to resemble the public sector. Supporters claim the reform modernized an archaic system and focuses on employee performance instead of protection. Rejection of government led to a premise that civil service employees’ performance would improve if they were treated similar to non-unionized corporate workers, resulting in a sound government. Instead, the reform resulted in chaos as described in Santayana’s book *Dominations and Powers* and confusion ensued. The promises of increased flexibility and accountability were replaced with loss of job security and benefits, an inability to attract qualified staff, division among citizens and resignations. Williams and Bowman claim at-will employment is to be blamed and warn “those who cannot remember the past are condemned to repeat it” (Santayana, 82).

Analysis of Arguments

All three articles contain similar arguments about civil service reform and the effects on public servants. Common themes discussed in the articles include the failure of the spoils
system, implementation of the merit-based system and warnings associated with current reform. A synchronized concern attributed to civil reform is patronage. The article “Bringing Back Boss Tweed? Could At-Will Employment Work in State Government and, If So, Where?”, describes examples of successful tenure removal at the national level while providing evidence that civil reform at the state and local level leads to a return of patronage due to corruption and lack of political accountability. Hays and Sowa echo the concern and consider reform to be an attack on public service employees; decentralization of the HRM reduces employee due process rights and increases at-will employment empowering supervisors and politicians that are pushing policies. The “lean on them til they break strategy of managing public employees has existed as long as merit systems have, and its usage may well be on the upswing, thanks to reinvention” (Hays & Sowa, 111). Similarly, Williams and Bowman report the merit-based system provided job security and efficient public service while protecting against patronage – employees were awarded based on qualifications and performance instead of partisanship (66). Civil reform removes the ethical barriers that prevent corruption, opportunism, mismanagement and ideological manipulation.

A second concern emphasized by all of the authors is an increase in at-will employment. The authors of “Civil Service Reform, At-Will Employment, and George Santayana: Are We Condemned to Repeat the Past?” identify the drawbacks of at-will employment for public servants and those being served. “Without the protections of a merit-based civil service system, contemporary politicians will be tempted to act as their counterparts did during the last time at-will employment prevailed in government” (Williams & Bowman, 72). It has been said the definition of insanity is doing the same thing over and over and expecting different results. This adage brings to life the nucleus of the article. At-will employment didn’t work during the spoils
system because of patronage, corruption, and lack of job security employee benefits and government accountability. These same issues have returned with the tidal wave of reform, George Santayana warns that if we forget the past, we are likely to repeat it. Based on the results of their study, Maranto and Johnson caution at-will employment reform in states with an individualistic political culture, as they are more likely to fall prey to patronage (484). Solidifying this point, Hays and Sowa’s case study review confirmed “of the 220 deputy directors who were in place at the time that South Carolina converted its positions to an at-will status, only 15 remained after 5 years” (114).

Another common concern expressed in all three articles is the disdain and rejection of government and promises of increased flexibility, accountability and government response initiated civil reform. Specifically, the articles “Civil Service Reform, At-Will Employment, and George Santayana: Are We Condemned to Repeat the Past?” and “A Broader Look at the “Accountability” Movement Some Grim Realities in State Civil Service Systems” both address the current shift in government from public service to public sector. Williams and Bowman propose hyper-individualism paved the way for acceptance of the business model, “this shift of the role of public service from moral guardian to commercial surrogate sees markets as the solution to social problems; since there is a market-based economy there should be a market-based society” (68). The problem with this philosophy is that it fails to differentiate profit making organizations from those responsible for providing public good. Additionally, the authors point out that a lack of values generally characteristic in government – transparency, due process and check and balances which are missing from at-will employment may be to blame for recent business scandals (Williams & Bowman, 71). Hays and Sowa agree the trend for government to mimic the business model has resulted in the loss of valuable recruitment assets
such as job security, protection from patronage and employee benefits (116). Additionally, these authors share a concern that the current civil service reform was launched with a lack of factual support. Williams and Bowman proclaim the merit-based system although efficient, has been reinvented without reason and with lack of careful examination. Hays and Sowa’s survey conclude many agency personnel felt the merit system was outdated and no longer relevant. However current reform measures were prescribed with little analysis. The authors suggest careful analysis needed to occur to ensure a well-designed HRM; instead reinvention of the system has severed the bonds between public servant and legislator created over years of collaborating, shortening politician’s careers. Additionally, broad banding opened the door to authority misuse and reward for party affiliation. “Several respondents commented they had personally turned down promotions to avoid possible replacement during the next gubernatorial administration” (Hays & Sowa, 115).

Hays and Sowa agree with Maranto and Johnson, party competition and division in government foster political accountability, increase public awareness, generate the need for politician response and protect civil servants from being pushed into a corner all of which are restrained through current reform. Additionally, both articles address the influence of bureaucracies on reform. In “Bringing Back Boss Tweed? Could At-Will Employment Work in State Government and, If So, Where?” Maranto and Johnson warn states with weak organizational structures ineffective public bureaucracies are hosts for patronage, reform in these states is risky (473). While Hays and Sowa provide examples of governors, uncovering civil servants, outsourcing jobs, consolidating agencies, abolishing unions, eliminating due process rights, requiring position justification or using “a “starve them out” strategy consisting of wage
freezes (and even cuts), reductions in benefits, and other measures intended to force out senior bureaucrats to open their positions up for appointees” (112).

**Evaluation**

Each article provides adequate background information on civil reform, an introduction of at-will employment and easy to understand definitions useful to career public administrators and students studying public administration. All three of the articles offer well-supported arguments with little to no inconsistent data. In the article “Bringing Back Boss Tweed? Could At-Will Employment Work in State Government and, If So, Where?” the authors measured independent variables, plugged the results into two scales and used the results to predict which states should consider reform. The corruption measure, traditional party index and the bureaucratic capacity (Govperf) measure have high face validity. Additionally, the data suggests a strong correlation between corruption and TPO while Govperf correlates negatively with corruption supporting the authors’ argument that effective bureaucracies result in less corruption (Maranto & Johnson, 477). Although Media capacity and party competition variables don’t have a relationship with the other variables, independently they have a direct influence on the outcome of a state’s reform readiness. Both scales, Reform1 (includes corruptions, TPO and Govperf) and Reform2 (includes all variables) have high face validity and caution against state reform. The authors acknowledge their argument has weaknesses. They claim reform is just as risky at the local level due to the same independent variables but their study lacks the data needed to make the prediction. Similarly, the predictions provided by the two scales cannot be evaluated until at-will employment is implemented in additional states and enough time has passed to thoroughly examine reform in Florida and Georgia (Maranto & Johnson, 485). Future research
is recommended to measure the effects of reform among different states, the explanatory power of the measured variables and additional variables that effect reform results.

The article by Hays and Sowa as suggests in the title, identifies the grim realities associated with civil service reform and the negative implications on public employees. The authors took an innovative approach by examining the implications of decentralization in state governments on public service whereas past research focused on changes in HRM and the effects on government structure. Hays and Sowa determined the respondents were reliable and the information collected through interviews was corroborated with written documentation strengthening their assessment. Additionally, their results are comparable with other scholarly research; several examples were cited in the article suggesting reliability. The data confirms conclusively that civil reform is mushrooming across the U.S. The authors addressed weaknesses with their study. For instance differences in response patterns, terminology and available data among the states presented challenges in standardizing responses and 25% of the interviewees requested to remain anonymous (Hays & Sowa, 105). Also, there is much discussion on partisan appointment “but to be fair, the number of positions that some governors can appoint (directly or indirectly) remains surprising insignificant” (113). I recommend additional research to measure the impact of managerial authority on employee productivity and government service.

In “Civil Service Reform, At-Will Employment, and George Santayana: Are We Condemned to Repeat the Past?” the authors review a case study on at-will employment using the Service First personnel system implemented in Florida and as per the idiom, the “proof is in the pudding” or in this case in the findings. During President Bush’s second term, sixty-five long-term Department of Education Employees without notice were given the choice to be fired
or sign a resignation letter following their immediate escort from the building and three additional Department of Education Employees that notified the Department’s Inspector General of financial negligence were terminated (Williams & Bowman, 73). Numerous hearings were requested by the AFSCME following reports of employees being terminating without reason or due to false allegations and unlawful reclassification “it is for such reasons that critics maintain that Service First empowers abusive managers and silences whistleblowers” (Williams & Bowman, 73).

As suggested by Williams and Bowman, Maranto and Johnson and Hays and Sowa civil reform welcomes at-will employment and unleashes patronage opportunism into a system once protected by the merit-based service. To further support the evidence presented in these three articles, additional research is necessary to examine the potential consequences of reform that have yet to be considered. Such as a measurement of the psychological effects of reform on civil servants (are there any short-term or long-term implications). Also, further analysis should be performed to determine if civil reform improves, decreases, or has no impact on societal opinions of government performance and trust. At-will employment has reduced public employee’s due process rights and an increase in unjust termination resulting in court hearings. These cases dramatically impact the legal system climate and the “court of public opinion’s” confidence in the judicial system. This issue is further complicated as it is highly possible that patronage has infiltrated the legal system due to presidential employment, requiring research to measure the effect of civil reform on the legal system.

Conclusion

Although there are some weaknesses with the data and the need for future research is apparent, the evidence provided is consistent among the three articles and is reliable to similar
scholarly research. There is empirical evidence to support the warnings against reform and claims that at-will employment has negative implications on public employees and the American society. Ironically, the same issues that were present with at-will employment and the spoils systems are evident in current civil reform. The merit-based system proved to be effective in reducing partisanship and its use as a moral compass, but due to reinvention it is rapidly being replaced without justification. “Today’s civil service reform, no matter how well meaning, cannot help but lead to partisan allegiance, political opportunism, and personal connections instead of technical competence, social equity, and responsibility in public service” (Williams and Bowman, 68). One cannot help but to ponder, why states are continuing to reform when the surmounting scholarly evidence clearly identifies negative consequences. Perhaps George Santayana’s prophecy is valid; we have forgotten the past and therefore are doomed to repeat the same mistakes.
References


