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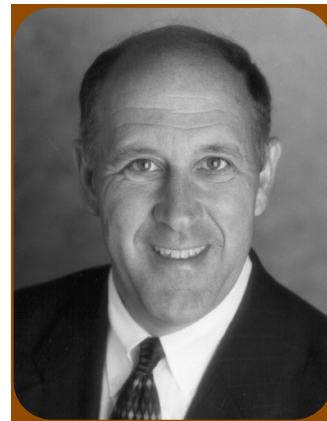


# FORWARD



*To my fellow citizens:*

On June 17, 2005, Wisconsin celebrates the centennial anniversary of its civil service law. Simply put, this law requires that Wisconsin state government hire its employees based on their demonstrated qualifications for the job. Back in 1905, Governor Robert M. La Follette signed one of the nation's first civil service bills into law. Motivated by a desire to address a culture of political patronage in government hiring that existed not only in Wisconsin but across the nation, Wisconsin's original civil service law was expansive in its scope and rigid in its requirements.



Over the years, Wisconsin's governors and legislators have maintained that early commitment to merit-based hiring of permanent employees while making dramatic improvements to infuse the system with more accountability to the general public, more access to employment for historically disadvantaged groups, and more flexibility to speed the hiring process while preserving the fundamental principle of selection based on demonstrated qualification for the job. Today, Wisconsin ranks high among the states for its sound, effective, and responsive human resources management practices.

The centennial of Wisconsin's civil service system presents an ideal opportunity to recognize not only the strong tradition of our law, but also the substantial contributions made by thousands of state employees who have served and continue to serve the citizens of Wisconsin. Please join me in recognizing the important role that civil service has made in ensuring effective, responsive government for all Wisconsin residents.

A handwritten signature in black ink, reading "Jim Doyle".

Jim Doyle, Governor  
State of Wisconsin







# PREFACE

Thank you for your interest in the 100th anniversary of the civil service system in Wisconsin state government. The Office of State Employment Relations (OSER) created this book to honor this moment in state government history, to recognize the contributions of the dedicated public servants who have worked as state employees over the years, and to acknowledge those who had specific involvement in creating, maintaining, protecting, and enhancing the civil service system itself. This publication was made possible in part through generous financial contributions from AFSCME Council 24 – Wisconsin State Employees Union, and the Wisconsin Education Association Council – State Professional Education and Information Council #1. My thanks to them for their support of this effort.

From its humble beginnings with roughly 1,400 classified employees in 38 job titles, the state civil service has evolved considerably over the past 100 years and now includes over 40,000 civil service employees in more than 1,800 unique classifications. State employees work hard every day to make Wisconsin a great place to live, work, and visit. It is no exaggeration to say that state employees' work touches the lives of every Wisconsin citizen.

In light of the important work that state employees do, it should be no surprise that succeeding generations of government leaders have maintained Governor Robert M. La Follette's essential philosophy that all citizens should have an equal opportunity to serve the public, and that they should be evaluated on the basis of their demonstrated ability to do the jobs they seek. Nevertheless, many states have departed from these core principles over the years in the name of making state government hiring more flexible and competitive. Wisconsin's leaders, by contrast, have chosen to preserve the core principles of merit hiring and just cause removal while continually striving for the flexibility needed to attract and retain high quality employees. This wise stewardship is indeed worth celebrating.

The civil service system has withstood the test of time, even in the face of today's challenges. As the state workforce expands in some areas and contracts in others to meet state government's priorities, operational needs, and fiscal limitations, the civil service system provides an orderly framework for ensuring that we provide employment opportunities fairly to our current employees and preserve the valuable institutional knowledge of our experienced staff. To make the most of limited resources, we are working to improve the coordination of human resources management across state government and to further streamline and automate civil service procedures, all within the framework that has served the state well for 100 years.

The wise stewardship we celebrate in this publication also positions us to meet tomorrow's challenges. The demographics of both the civil service workforce and the general labor force are changing rapidly. State government will soon be faced with replacing large numbers of retiring employees from a pool of potential job applicants that is both smaller and more diverse. Governor Doyle has asked agencies, under the direction of OSER, to engage in comprehensive workforce planning so that state government can continue to deliver essential services in an increasingly competitive labor environment. By identifying state government's needs in recruitment, hiring, classification, compensation, and training, we can meet future workforce challenges using the tools of the civil service system.

The original slogan of the civil service was "The Best Shall Serve the State." The people of Wisconsin deserve no less from their state government over the next 100 years.

—Karen E. Timberlake, Director  
Office of State Employment Relations



# CHAPTER I

## INTRODUCTION: THE LINEAGE OF CIVIL SERVICE

The fundamental idea of democracy is that all men are equal before the law. What proposition is plainer than that every citizen should have an equal opportunity to aspire to serve the public, and that when he does so aspire the only test applied should be that of merit? Any other test is undemocratic. To say that the test of party service should be applied is just as undemocratic as it would be to apply the test of birth or wealth or religion.

—Governor Robert M. La Follette, January 12, 1905

On June 17, 1905, Governor Robert “Fighting Bob” La Follette signed Wisconsin Statute Chapter 363 into law, effectively creating Wisconsin’s civil service system. Only two other states preceded Wisconsin in enacting such a law. The 1905 law established a merit system that required all positions covered under the act to be filled by competitive examination.

And what is the civil service system, exactly? In a nutshell, civil service is the system for hiring, retaining, and promoting employees based on objective assessment of their qualifications and ability to do the work. Wisconsin’s civil service system is grounded in two cornerstones: hiring decisions are merit-based, that is, made on the basis of qualifications, following an open competition and objective evaluation; and removal from service must be based on just cause.

Civil service is anything but a new idea. The concept of civil service dates back to ancient China. It was premised on the beliefs that those entrusted with public duties should meet rigorous standards of qualification and accountability, and that citizens should have equal opportunities to be employed in public service. Today’s civil service system similarly ensures that state employees are appointed based on merit and are well-qualified to carry out their public duties.

For the past 100 years in Wisconsin, the principles of fairness and merit in hiring and other employment

decisions have helped ensure that state government is equipped to deliver the vital public services that its citizens expect and need. Wisconsin’s state employees deliver a wide variety of services that are of enormous importance to all of us, ranging from managing and preserving our abundant natural resources, protecting public health, maintaining our transportation systems, securing public safety, supporting our economic well-being, and many others. The civil service system helps to ensure that these vital services are delivered with professionalism, efficiency, and integrity by highly-qualified state employees.

Wisconsin’s civil service system remains one of the most comprehensive in the nation. The civil service system has retained its core values of merit and fairness with regard to the state government workforce of permanent classified employees. At the same time, the system has been flexible enough to meet the new challenges raised by increasing demands for government services, technological changes, and major societal changes such as the civil rights movement and the rise of organized labor in Wisconsin state government.

This book attempts to convey how the civil service system has grown and evolved to support our state’s progress over the past one hundred years. It outlines the historical context from which our civil service system emerged, the system’s inception at the outset of the 20th century, and the evolution and advancements over the past 100 years that have shaped the system we have today.

Wisconsin's civil service law has also been a vehicle from which other key employee-based initiatives have been derived. Subsequent chapters describe the beginning of the public sector labor movement in Wisconsin in 1932 and the evolving relationship between public sector labor unions and the civil service system. The book also examines the development of the state's affirmative action programs that have promoted a diverse workplace and ensured that our employment practices abide by and advance the principle of equal opportunity for all job seekers and employees.

The civil service system would have no meaning without the state employees for whom the system exists. Thousands of citizens have, over the past 100 years, competed for the opportunity to serve the public welfare as state employees. This book serves as a tribute to their dedication and integrity. Throughout this book, we share observations of current long-term and former state employees, to provide a first-hand account of their experiences in state service.

Over this distinguished 100 year history, Wisconsin has retained the integrity of its civil service protections, while implementing progressive changes to enhance the system's flexibility, fairness, and efficiency. This book seeks to present not just the historical record, but also to celebrate the civil service system's significant role in ensuring that state government meets the high standards of integrity, service, and effectiveness that our citizens deserve.

## ORIGINS OF THE CONCEPT OF CIVIL SERVICE

The enactment of the first civil service law in Wisconsin did not materialize in a vacuum. Its passage in 1905 was part of a burgeoning movement in the United States to replace patronage or "spoils" systems with hiring systems based on objective determinations of merit. This movement, particularly as it played out in the federal government, provided the precedent and political momentum that allowed Wisconsin's civil service system to emerge and succeed.

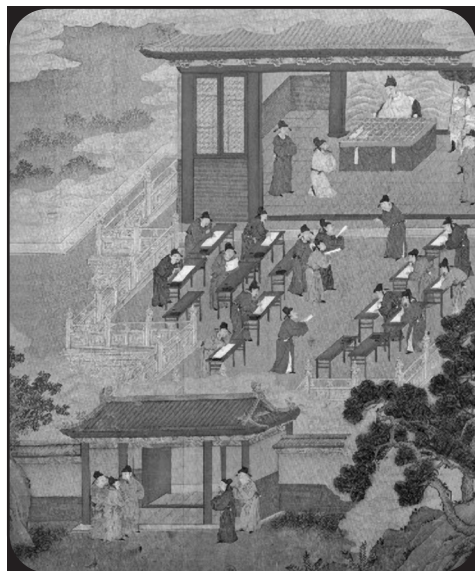
The concept of civil service did not, however, originate in the United States. In fact, the roots of the civil service system date back to the Han dynasty (202 B.C. to 220 A.D.) of ancient China. Many aspects of modern civil service, such as the emphasis on ability and a

scrupulous fairness in the selection process, can be traced back to this time.

Confucianism emphasized the value of the scholar. Professional civil service in China stemmed from an emphasis on education, the sharing of Confucian principles of loyalty and responsibility, and the value of scholarship over aristocratic birth. In ancient China, the emperor governed through loyal governors and bureaucrats in the provinces, who were products of the scholar classes and the examination process. A rigorous examination process thus reinforced the emperor's control of the government.<sup>1</sup>

By the end of the Song dynasty in the 12th century, most Chinese government officials were graduates of a highly-developed examination system. There were two levels of examination. The first examination was held in the prefecture, where students were tested on their knowledge of the five Confucian classics, their ability to form judgments and apply principles from the classics, and their literary ability. The second exam, for those who passed the prefecture exam, was the metropolitan examination administered at the capital. In both steps, the examination was closely proctored,<sup>2</sup> and the name of the scholar and his handwriting were obscured to prevent favoritism.

Chinese civil service, with its emphasis on fairness and objectivity in testing, created a path for commoners to achieve power in government, diminished the power of aristocracy, established consistency of administration across an empire of 120 million people, and consolidated authority in an "executive branch" with the emperor clearly at its head.<sup>3</sup> While Wisconsin's civil service law cannot be directly traced to the civil service of ancient



*Civil service exam, China.*

China, the practices of Confucian China reveal the universal and timeless appeal of a system that values merit and fairness in appointing those who serve the public good.

### THE ORIGINS OF CIVIL SERVICE IN THE UNITED STATES

When George Washington was elected president of the new republic in 1789, the fledgling government's urgent task was to define and establish the structure of its executive branch.

Three initial executive departments were created: Treasury, War (now Defense), and Foreign Affairs (State). The next question was what sort of leadership they should have and how those leaders should be appointed. To whom did they report? How long were their terms? What criteria should be used to select them? How could they be removed?

It is some times assumed that the initial decision to define cabinet officers as the President's assistants, responsible to him and for whose acts he in turn took responsibility—rather than as ministers whose functions to some extent rivaled his own—was simply up to Washington, and was made by him. This is only partially true. The departments had first to be established, and it was up to Congress to decide at whose pleasure, and under what conditions, the head of each of them would hold office.<sup>4</sup>

Patronage was unpopular with Americans at the time of the nation's newly-won independence. They had witnessed problems with unqualified political appointees under British rule. While there were no entrenched political parties yet, there were remnants of a division between Federalists, those who favored the new constitution, and Antifederalists, those who had opposed the new constitution.

Washington could have filled his appointments with his friends and supporters and ignored his enemies. However, he realized that if the new nation was to endure, it must be recognized as legitimate in the eyes of all its citizens. Washington resolved the issue by carefully making his appointees those he called “first characters.” Washington had three criteria. The appointee must be a man of demonstrated ability,

with a well-known, substantial record of public service, and he must be respected within his community.

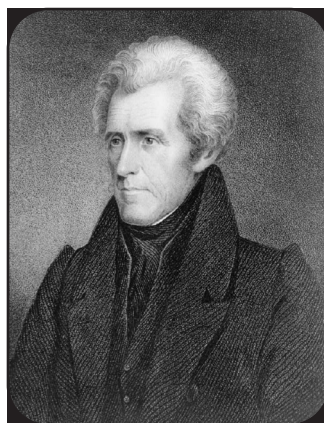
Washington's appointment criteria—merit, accomplishment and character—were based on his own high-minded principles and devotion to the success of the new nation. Washington's first appointees were familiar names: Alexander Hamilton at Treasury, Henry Knox at War, and Thomas Jefferson at Foreign Affairs.<sup>5</sup> He made between 350 and 390 appointments as President.

A second issue was who should hold the power to remove appointees. Congress gave the president the absolute power to remove executive appointees, without question or recourse. This made them accountable only to him. While Washington had the power of removal, he exercised it only nine times in eight years—some for political reasons and some for cause.<sup>6</sup>

Thus, while Washington's “first characters” approach to government appointments by no means amounted to a civil service system or even an objective selection process, his approach reflected a strong valuing of merit and qualification, and an accompanying distaste for patronage or favoritism. In Washington's own words on the subject, “my private feelings have nothing to do in the case. I am not George Washington, but President of the United States.”<sup>7</sup>

### EMERGENCE OF THE FEDERAL SPOILS SYSTEM

While there was no requirement in constitution or law to retain a previous administration's appointees, the first Presidents generally followed Washington's model of maintaining the “First Characters.”



Andrew Jackson

When Andrew Jackson took office in 1829, he found a culture of entitlement and ownership of federal jobs had developed among the executive branch. He was also concerned with tales of corruption.

Once in office, Jackson was inundated with requests for appointments.



Presidents were not isolated from the public in his time. Office seekers “just walked into the office unin-  
vited. . . . He was so inundated with office seekers  
that at one point he declared he had five hundred  
applicants for every office available”<sup>8</sup>—and there  
were a lot of offices available.

Jackson, unlike his predecessors, advocated a  
philosophy of “rotation of offices,” believing that all  
appointees should be terminated every four years.  
He viewed the frequent replacement of government  
employees as a means to reform a system that had  
devolved into entitlement and corruption.

Compared to preceding presidents, Jackson exercised  
the right to removal freely. John Adams removed nine  
subordinates from the preceding administration “but  
none for political opinion’s sake.” Jefferson removed  
39, Madison five,  
Monroe nine, and John  
Quincy Adams two.  
Jackson removed 919 in  
the first 18 months of  
his administration.<sup>9</sup>  
James Parton, an early  
Jackson biographer,  
places the total number  
of offices replaced at  
over 2,000.<sup>10</sup>

Jackson sought to  
codify the principle of  
rotation in office into  
law, but there was  
opposition in Congress  
to the wholesale  
replacement of public  
officers. When the pro-  
posal was debated on  
the senate floor, the  
salient moment came  
from Senator William L.  
Marcy of New York,  
who declared, “To the  
victor belong the spoils  
of the enemy.”<sup>11</sup>

What Jackson saw as reform, others saw as spoilsman-  
ship—including most of the office seekers. Indeed,  
one of his appointees, Samuel Swartwout, wrote to a  
friend prior to his appointment:

I hold to your doctrine fully that no d--d rascal who  
made use of his office or its profits for the purpose of  
keeping Mr. Adams in, and General Jackson out of  
power, is entitled to the least lenity or mercy, save that  
of hanging. So we think both alike on that head.  
Whether or not I shall get anything in the general  
scramble for plunder, remains to be proven; but I rather  
guess I shall.<sup>12</sup>

Mr. Swartwout was appointed to the Collector of the  
Port of New York, where he was later found to have  
absconded with \$1,222,705.09.<sup>13</sup> By the time the  
magnitude of his theft was understood, he was living  
comfortably in Europe.

### *Recollections of a State Employee*

*After separating from my husband, I saw an article in the  
Sunday paper about a class at MATC for Displaced  
Homemakers. I took the summer school classes in office  
support, bank machines, and typing along with many  
other women.*

*I took the state civil service exam and passed. I had done  
bookkeeping for my husband so when I was offered a job as  
a supervisor in the Word Processing Unit at Revenue in 1972,  
I took it. I was a supervisor for 10 years until my unit was  
consolidated with Purchasing and they abolished the job.*

*They offered me any job that I wanted. I took the receptionist  
job which I enjoyed. At the time, Revenue was extremely  
friendly; everyone was on a first name basis. I really enjoyed  
working at Revenue—only two places I like—budget and  
fiscal. I made good friends and I keep in touch with people.*

—Betty Kowing

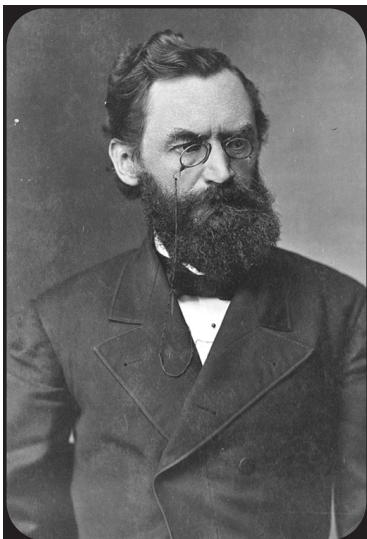
Jackson’s various biogra-  
phers treat him either as  
a reformer who  
removed corrupt office  
holders and advocated  
rotation in office for the  
good of the nation, or  
as a patron spoilsman,  
who punished his ene-  
mies and rewarded his  
political supporters.  
Undoubtedly, both state-  
ments contain some  
truth. It is clear that the  
basic practices of a  
patronage system—  
rewarding political  
supporters with appoint-  
ments, and removing  
incumbent officials fol-  
lowing a change in  
administration—were  
firmly established by the  
end of Jackson’s term.

## THE CALL FOR REFORM

The abuses of the federal spoils system and the increasing size and complexity of government led to the recognition that a professional government civil service, based on special ability and expertise, was needed. Jackson believed that anyone could do a government job. However, with the invention of the typewriter and establishment of technical agencies, departments, and bureaus to deal with things like interstate commerce, the Geological Survey, and other scientific and technical subjects, mere good penmanship was no longer a sufficient qualification for government employment.<sup>14</sup>

Federal employment increased from 20,000 in the Jackson years to almost 60,000 during the Civil War, to 131,000 by 1884, to 166,000 by 1891. The number of vacancies to be filled and the volume of office-seekers demanding attention was a huge problem for every new administration:

One of Abraham Lincoln's most distasteful duties as President, but one that he skillfully used to increase power, was to satisfy thousand of requests from Congressmen and party bosses for patronage appointments. Often Lincoln awoke to find a swarm of office seekers buzzing around his bedroom door, waiting for a chance to lobby him for one of the valuable spoils appointments, of which there never seem to be enough. "I have more pegs than holes to put them in," lamented Lincoln.<sup>15</sup>



Carl Schurz

Carl Schurz, an abolitionist, Civil War hero, and newspaper editor hailing from Watertown, Wisconsin, was elected to the United States Senate in 1868. At the start of his term in 1869, Schurz wrote to his wife, complaining about the constant throng of increasingly anxious office-seekers:

Almost every night I sit at my writing table till one or two o'clock, merely to prevent my correspondence from swamping me. Before ten o'clock in the morning I sometimes receive 25 to 30 callers.

Of course this is just the worst time. At the beginning of an administration the whole civil service has to be taken care of, and that makes more real drudgery than anything else. . . .

If I have ever been convinced of the necessity of civil service reform, I am so now. It is positive drudgery. Of course it will be better when the patronage shall have been parceled out, but at present it is hardly endurable . . . office-seekers . . . continually swarm me like grasshoppers.<sup>16</sup>

Senator Schurz made civil service reform his first priority in office and drafted a bill proposing a merit selection system:

The main point I want to establish by my bill is to avoid the quadrennial scandal of universal office hunting, to deal out the offices according to ability and deserts instead of political and personal favoritism, and thus provide for the republic an honest and economical administration and cleanse our political life of the of corrupting element of office seeking. The method through which I wish to obtain this object consists in this: that every candidate for an office, before he shall be appointed, must submit to a test before an examining commission, and that during the term of office (which is to be lengthened) no officers are to be removed except for inefficiency, neglect of duty, or violation of law.<sup>17</sup>

Powerful political interests who had used the system to their advantage opposed the reform. Despite the efforts of Senator Schurz and his core group of reform-minded senators and newspaper editors, it would require fourteen years and the assassination of a President to make civil service reform a reality.

## A PRESIDENT'S ASSASSINATION AND THE RENEWED DETERMINATION FOR REFORM

In the presidential election of 1880, a ne'er-do-well named Charles Guiteau gave a few speeches locally on behalf of Republican candidate James Garfield.<sup>18</sup>

Following Garfield's election, Guiteau irrationally believed that he was solely responsible for Garfield's success. Guiteau thought that the Republican Party, and President Garfield in particular, owed him a political appointment either as Consul General in Vienna or Consul in Paris. When his constant letters and solicitations for personal meetings were ignored, Guiteau concluded that God wanted him to kill Garfield.

On July 2, 1881, a sweltering Washington day, President Garfield sought to escape the capital for a brief vacation. He went to the Baltimore-Potomac depot to catch a train to join his family at their summer home. Secretary of State James Blaine accompanied him on the crowded platform. Charles Guiteau stepped from the crowd and shot the President twice in the back. Garfield lingered until September 19, 1881. Guiteau, the deranged office-seeker, was hanged a year later.

The nation was incensed. Carl Schurz, George Curtis, Dorman Eaton, E.L. Godkin, and other longtime advocates of civil service reform finally gained the momentum for change. Civil service reform was championed by Eaton, editor of *Harper's Weekly*; by E.L. Godkin, editor of *The Nation*; and by a host of other newspaper editors and civic leaders. Schurz, Curtis, Eaton, and Godkin organized the new National Civil Service Reform Association. Civic groups across the nation took up the cause of civil service reform.<sup>19</sup> In Milwaukee, the Municipal League, the German workers political parties, the Republican Party, and the Milwaukee Club all advocated for political reform.

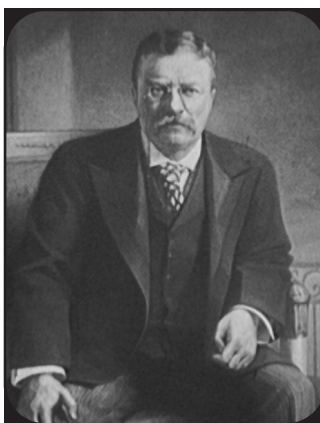
### THE PENDLETON ACT, ROOSEVELT AND LEGITIMACY

With the renewed interest in civil service reform after Garfield's assassination, the environment was ripe for new legislation. Five civil service bills had been introduced in Congress and defeated since the Civil War. In 1871 a federal civil service commission was briefly established, requiring examinations and hiring based on merit. But like earlier efforts, it was eventually defeated by apathy and the practical value of spoils politics to the accumulation of power. In 1875 the commission expired.

Following Garfield's assassination in 1881, Schurz, Eaton, and Curtis drafted a federal civil service reform

bill which was introduced in Congress by Senator George Pendleton. President Chester A. Arthur signed the Pendleton Act into law in 1883.

The Pendleton Act created a three-person civil service commission. It established a merit examination and hiring system that was to apply to the customhouses and Postal System, less than ten percent of the 1880s workforce. The act established "competitive examinations for testing the fitness of applicants. . . . Such examinations shall be practical in character." It provided for ranked lists of examinees, probationary periods, and a chief examiner. The act also forbade requiring classified employees to contribute to a political fund or perform political duties.<sup>20</sup>



Theodore Roosevelt

Even this reform may have languished and faded except for the actions of one very aggressive office-seeker, Theodore Roosevelt. Roosevelt was appointed to the civil service commission in 1889 and almost immediately poured his unbridled energy into his new job. A few weeks after his appointment, he organized the commission into a tour of Midwestern offices. He fired eight people in Minneapolis who had been appointed without being certified. In Milwaukee he caught the postmaster re-marking the tests of Republican office-seekers. While Roosevelt lacked the authority to fire postmasters, he unleashed a torrent of letters and demands both on U.S. Postmaster John Wanamaker and President Harrison. The Milwaukee postmaster resigned a few months later.

Roosevelt's whirlwind tour established the authority of the civil service law. His energy and force of personality made a lot of enemies, but he established the legitimacy of the civil service. When he joined the commission there were approximately 13,000 employees classified under federal civil service authority. By the time he left office in 1895, there were more than 40,000. When he left the presidency in 1908, there were more than 135,000 classified federal employees.



## WISCONSIN'S FIRST CIVIL SERVICE SYSTEM— MILWAUKEE POLICE AND FIRE

The first civil service law passed in Wisconsin was an 1885 act establishing a Police and Fire Commission for the City of Milwaukee.<sup>21</sup> *The Milwaukee Journal* stated in 1921:

For thirty years, from 1855–1885, the force was the football of partisan politics. Appointments were based on “pull,” rather than on merit. Examinations of applicants as to their fitness for positions were unthought of. If the party that had been out of power won a city election it meant that the chief, subordinate officers and many of the patrolmen would be “fired.”<sup>22</sup>

In a 1933 article, the *Journal* said:

In the 30 years from 1855 to 1885, during which the police department was under the old political spoils system chiefs of police were changed seven times. Some served only for a year or two and were then dis-

missed as a new administration came in. Since 1885, however, when the police department was divorced from political influences, there have been only three chiefs, the last two serving over a period of 45 years.<sup>23</sup>

The new commission made political spoils appointments obsolete. It also established the principle of examinations and merit hiring.

By 1895 the Republican Party, backed by its German labor constituency, the Civil Service Reform Association, and, the Municipal League, continued its reform agenda by getting a bill through the state legislature extending civil service to the other departments of Milwaukee city government.<sup>24</sup> By the mid to late 1890s, the era of reform in Wisconsin was well on its way, with civil reform groups, good government clubs, and literary societies all advocating for change. This advocacy set the stage for Wisconsin to enact a civil service law for its state government.

—Dean Paynter, Patricia M. Almond

## *Recollections of a State Employee*

The economy was poor in 1958 when I graduated with a B.S. in Business Administration and a major in Marketing. Businesses were not hiring. I took a state test and was hired by the Bureau of Personnel and worked on the second floor of the Capitol. We became part of DOA in 1959 or '60. I took another exam in 1966 for Administrative Officer and left DOA to work for the Department of Resource Development. Resource Development was very challenging and it was a period of great expansion in the

areas of pollution, water, air, solid waste. We had a lot of support from the legislature. After Resource Development merged with Conservation, I went to Conservation (now Natural Resources) where I transferred to the Personnel Office. I was involved in payroll, contract negotiations, and ended up in labor relations. It was great to be able to contribute.

—Trygve E. Thoresen





# CHAPTER II

## WISCONSIN STATE CIVIL SERVICE 1905-1929

Wisconsin was only the third state to implement a civil service system, following the lead of New York, Massachusetts, and the federal government. The introduction of a civil service system in Wisconsin, as in other states and the federal government, marked a radical change in state governance. With the passage of the state's first civil service law in 1905, the state moved from a patronage or "spoils" system of government employment, in which state employees were often selected based on political affiliation, to a merit system of hiring based on open and competitive examination.

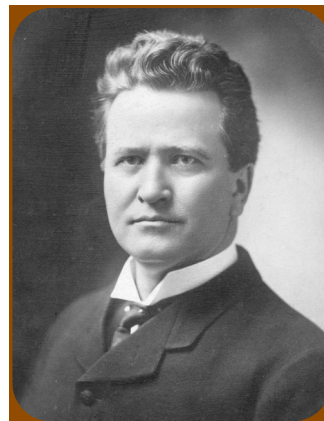
As in the federal government, the initiation of a civil service system brought the end to party "machine" governance in Wisconsin and marked a highpoint in the progressive reforms of the era.

### FIGHTING BOB LA FOLLETTE, PATRONAGE, AND PROGRESSIVISM

Robert Marion La Follette was born on a farm in Primrose, Wisconsin in 1855. He graduated from the University of Wisconsin in 1879, obtained a law degree, and eventually become the first governor of the state to have been a UW graduate.<sup>1</sup> Prior to his campaigns for the governorship he served three terms in Congress. He ran for governor unsuccessfully in 1896 and again in 1898, losing the Republican nomination both times to Edward Scofield, a prominent and wealthy lumberman supported by the more conservative and wealthy Stalwart branch of the party.<sup>2</sup>

La Follette was elected Governor of Wisconsin in 1900, succeeding Scofield.<sup>3</sup> Prior to his nomination and election, La Follette had unified many different factions

within the Republican Party. The Progressives, the reform side of the Republican Party, were a loose coalition of "Old Populists," idealistic crusaders,



Robert M. La Follette, Wisconsin Governor 1900 – 1906 SHS Photo

University intellectuals, Scandinavian and farming groups, urban workers, professional officeholders, ambitious youngsters, and a disgruntled multimillionaire.<sup>4</sup> La Follette was opposed within the Republican Party by the Stalwarts, wealthy old-line lumber and railroad interests. Scofield continued to be one of La Follette's chief Stalwart opponents.

The Republican unity ended soon after La Follette's election. Despite Republican majorities in both the assembly and senate, he failed to pass his two major pieces of legislation, the direct primary system and the ad valorem taxation of railroads.

### THE "REFORM BOSS"

Governor La Follette proved himself to be not only a reformer, but a pragmatic politician as well. Beginning with his reelection in 1902,<sup>5</sup> he built a machine of political alliances and patronage that was as strong and disciplined as any of his predecessors.

La Follette's second term was more successful than his first. He kept his opposition under control. His direct primary bill was passed and approved by a statewide

referendum. The railroad tax bill was passed and signed into law.

He did not hesitate to use machine patronage to strengthen his political base. La Follette biographer Robert S. Maxwell writes:

All political machines are said to run on patronage, and La Follette's organization was no exception. A large number of party workers found their way into profitable jobs in the state administration. Clerks, oil inspectors, and factory inspectors performed dual service during the campaigns season. Even the lists of temporary personnel, such as State Fair guards and ticket sellers, were culled to provide the greatest possible number of jobs for progressive workers.

But by far the largest single group of part-time political workers for the progressives were the state game wardens....

At election time the deputy wardens distributed pamphlets, posters, and sample ballots. In districts where close contests were expected several of them would work as a team, calling on party members, getting out the vote, and even providing vehicles to take voters to the polls....

The report of 1904...listed eighty-two inspectors of illuminating oils by name with salaries and per diem expenses of over \$20,000. No expense of this type was listed for 1900.<sup>6</sup>

In 1904, La Follette was elected governor for the third time. With his political machine in place and surrounded by a cadre of Progressive supporters, Governor La Follette, now a "reform boss,"<sup>7</sup> was in position to push through his reform agenda.

### THE WISCONSIN IDEA

Governor La Follette, as a University of Wisconsin alumnus, believed in what would later be called the "Wisconsin Idea." The Wisconsin Idea, loosely stated, is that the university should work for the good of the state and the state should support the university.

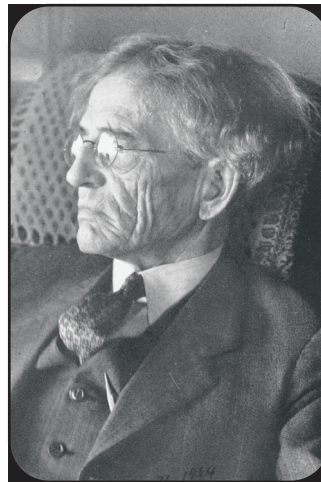
Governor La Follette organized the Saturday Lunch Club, weekly discussions of political, legislative and

intellectual issues. The club consisted of prominent intellectuals, including Charles Van Hise, University of Wisconsin president and a former La Follette classmate; John R. Commons, the economics professor who was to write the civil service law in 1905; Richard T. Ely, another economics professor; and Edward A. Ross, a prominent social scientist.<sup>8</sup> The discussions helped to develop the progressive legislation that won the praise of Theodore Roosevelt:

Thanks to the movement for genuinely democratic popular government which Senator La Follette led to overwhelming victory in Wisconsin, that state has become literally a laboratory for wise experimental legislation aiming to secure the social and political betterment of the people as a whole.

Nothing is easier than to demand on the stump, or in essays and editorials, the abolition of injustice and the securing to each man of his rights. But actually to

accomplish practical and effective work along the line of such utterances is so hard that the average public man, and average public writer, have not even attempted it.<sup>9</sup>



*John R. Commons, author of the Civil Service Act of 1905 and other Progressive era legislation.*

Wisconsin's civil service act was the direct product of this dynamic intermingling of university intellectuals and public servants: early in his second term, Governor La Follette asked Professor Commons to draft a civil service law.

### THE CIVIL SERVICE ACT OF 1905

State Representative Ernest Warner, who later admitted to having little confidence of its passage, introduced the Civil Service Reform Act drafted by Professor Commons in the state assembly on January 2, 1905.<sup>10</sup> The Act proposed a system of merit-based hiring.

In an address to the legislature on the bill, Governor La Follette said:

The fundamental idea of democracy is that all men are equal before the law. What proposition is plainer than that every citizen should have an equal opportunity to aspire to serve the public, and that when he does so aspire the only test applied should be that of merit. Any other test is undemocratic. To say that the test of party service should be applied is just as undemocratic as it would be to apply the test of birth or wealth or religion.<sup>11</sup>

The civil service law was largely modeled on the New York, Massachusetts, and federal laws. It required that all positions covered under the act should be filled by competitive examination, and that all current employees in the classified service should pass a non-competitive examination within six months to retain their positions. The Act provided that the examinations should be held simultaneously “at a convenient point in each of the assembly districts,” which resulted in examinations being given simultaneously in 111 test sites statewide. The bill also defined “the promise by [an officeholder or candidate] of political appointment in return for aid in securing political preferment” as bribery.

The Act passed the legislature and was signed into law by Governor La Follette on June 17, 1905. The legislature’s surprising enthusiasm for civil service—it passed both houses with a two-thirds majority—was partly due to the Act’s broad coverage.

The Act set up two categories of employees: unclassified, which “included elected officers, officers appointed by the governor, most employees of the University, teachers in the public schools, librarians of publicly supported libraries, heads of state institutions, and persons appointed by name in statutes. All others were in the classified service.”<sup>12</sup> Employees in the classified service were deemed covered under the act.

One early state roster showed 960 employees in the classified service and 600 in the unclassified service. This was far broader than the federal civil service during its early days, when less than ten percent of federal employees were classified.

Relatively few incumbent employees were exempted from the non-competitive examination requirement. Employees of “the state charitable, reformatory and penal institutions” were not required to take examina-

tions, because the institutions had been regarded as mainly patronage-free and merit-based prior to passage of the legislation.

Likewise, the law provided few exemptions for Governor La Follette’s political appointees. The law effectively dismantled his own political machine. Indeed, in the following year, the legislature extended the civil service merit system to its own legislative employees.

### THE FIRST CIVIL SERVICE COMMISSIONERS

The Act created a Civil Service Commission made up of three appointees. The first three commissioners were Samuel E. Sparling, Madison; Thomas J. Cunningham, former Secretary of State, Chippewa Falls; and Otto Gaffron, Plymouth. They served without pay. The Commission was supported by a salaried staff of three:

That staff consisted of a secretary and chief examiner at a salary of \$2500 per year, a stenographer at \$720 per year and a chief clerk.... The original duties of the Commission were (1) to prescribe and enforce rules and regulations for carrying the act into effect; (2) to keep minutes of its own proceedings and records of official actions; (3) make investigations of all matters touching the enforcement and provisions of the civil service law; (4) to issue subpoenas for its investigations, if necessary; and (5) to make a biennial report of its actions.<sup>13</sup>

In the early years, the primary activity of the Civil Service Commission was to rule on requests for exemption from the Act. Many department heads appeared before the Commission to argue that a particular position should not be in the classified service and therefore exempt from its hiring rules. Exemptions were infrequently granted, and the great majority of positions remained in the classified service.

### REMOVALS FOR CAUSE

The main purpose of the original civil service act was to regulate the appointment of state employees. It touched on removals from service only tangentially, requiring that removals be for “just cause” and forbidding removals for religious or political reasons. But the

law had no provisions for review of removals, except those allegedly done for political or religious reasons, and it specifically took a hands-off approach to removals, leaving them up to the appointing authority. The Act also left the remedy for unjust removal to the courts:

This weakness of the commission became obvious in several subsequent cases where an opinion of the attorney general said the commission could not "sit as a judicial tribunal to determine disputed questions of fact as to the discharge or resignation of classified state employes. 'The purpose of the civil service law is to provide for the appointment of state employes according to merit and fitness and to prevent their appointment because of political or religious considerations.' (1908 Opinions of the Attorney General 203)."<sup>14</sup> This was reinforced by a state Supreme Court case, *Wagner v. Dahl*, which said that not even the courts had jurisdiction over dismissals. "In short the 'just cause' which was to be the sole grounds for dismissal, only had to be 'just' in the mind of the dismitter."<sup>15</sup>

However, a subsequent Wisconsin Supreme Court decision, *Ekern v. McGovern* (1913), strengthened the civil service concept of dismissal for just cause. Herman Ekern was an insurance commissioner fired by Governor Francis McGovern for political reasons. McGovern claimed an absolute right to discharge anyone in his employ and that the commission could not interfere. The Supreme Court sided with Ekern, establishing the property right of an employee to his job, and requiring the state to observe due process protections in discharge cases.<sup>16</sup>

### *Recollections of a State Employee*

*I started in 1955 in the School of Nursing, typing and all that. Nothing much. I was just an ordinary person, took a street car to work. That's a long, long time ago. I always loved to work, typing. I would like to type again. I like to keep busy.*

—Helene Hozeny

## SCIENTIFIC MANAGEMENT

By 1918, the Civil Service Commission embraced and proselytized scientific management, a popular theory of the day that attempted to apply scientific principles to business management. In a publication entitled "Your Business, The Government of Wisconsin, How It Handles its Employment Problems," the Commission stated that "the main part of scientific employment begins after the act of hiring has been completed."<sup>17</sup> It asserted that:

### The application of scientific employment principles

1. Reduces employment turnovers (changes).
2. Brings into the organization a higher type of employee.
3. Makes for a more business-like procedure.
4. Results in a higher type of service.<sup>18</sup>

The publication went on to explain the value of job analysis, position descriptions, salary schedules that pay similarly for similar work, and examinations based on job duties.

The Commission emulated private manufacturers both in its scientific approach to the analysis of work, and also in its emphasis on providing substantial and ongoing training for employees. The first training course offered under the Commission's authority was "Effective Correspondence" for stenographers. By 1921, courses were offered in such varied topics as heat, refrigeration, criminology and penology, steam boilers, public speaking, practical sociology, freehand lettering, and many others.<sup>19</sup>

Many of the original policies and procedures relating to civil service examinations are still observed today. For example, the Commission required that "all examinations...shall be practical in character and shall relate to those matters which will fairly test...the duties of the office." This requirement lives on in the present-day requirement that questions and processes used to test job applicants be job related. Examinations were "free and open" to all citizens, as they are today; exam materials were carefully guarded, as is still the case today; and information about exams or interpretations of questions was given to one applicant only if it was available to all applicants. At the end of exam sessions, proctors collected all materials including "scratch papers and blotters," a practice still followed today at the end of proctored examinations. The only public



information about applicants was the list of those who passed an exam; the actual examinations and scores were available only to the applicant. These practices continue to be observed. Likewise, as is the case today, examinations were blind-scored so scorers did not know the identity of applicants. Laborer positions required only an application form to be filled out, with no examination, similar to the recruitment process currently used for certain positions. Veterans of the Civil War who passed the examination were to “be given a reasonable preference,”<sup>20</sup> a precursor to today’s system of giving additional points to veterans who compete for state jobs.

Certain features of the initial hiring system have become obsolete, however. The original system observed the “rule of three,” under which a certified list of only the three top-scoring applicants was provided to the hiring authority for interviewing and selection. No classified employee could be placed on the payroll unless he or she had been so certified by the Commission.

The Act created a remarkably comprehensive hiring system, many aspects of which have survived the test of time. However, the system was not without its detractors.

### CHALLENGES TO THE CIVIL SERVICE SYSTEM

Two important challenges in 1911 sustained and enhanced the authority of the civil service system. Ironically, the first challenge was initiated by the author of the Act, John R. Commons. In 1911, Commons wrote legislation creating the new Industrial Commission, and sought to have Industrial Commission employees exempted from the civil service act. His concern was that many of these employees would work as mediators and conciliators between labor and industry and must have the confidence of both groups. The Civil Service Commission kept Industrial Commission employees in the classified service, subject to testing, but added an oral examination requirement to their hiring process. The Commission’s actions eventually won over even Professor Commons, who later stated:

As I look back over my thirty years in Wisconsin and recall the many attempts, including my own in 1911, to emasculate the civil service law, I conclude that the

greatest service La Follette rendered to the people of the state was that civil service law of 1905. Without that law... his own administrative commissions on taxation and railway regulation would soon have broken down. The state, in thirty years, has switched from Progressives to Conservatives and back to Progressives and then to Democrats, and these shifts have always brought open or covert attacks on the civil service law. Without the civil service law, none of the later so-called ‘progressive’ laws...could have been enacted.<sup>21</sup>

The second major challenge not only would have overturned civil service, but would have radically changed the course of administrative law in Wisconsin. In 1911, Attorney General Levi Bancroft sought to have the positions in his office exempted from the civil service. When his request for exemption was denied, Bancroft and Secretary of State James A. Frear pursued a strategy to block the work of the Civil Service Commission.<sup>22</sup>

General Bancroft devised a legal argument that commissions were an unconstitutional usurpation of the powers of the legislature. He wrote to Secretary of State Frear: “[A]fter investigation and careful consideration, doubts of so serious a character are entertained as to the constitutionality of the civil service law, that I am obliged to advise you to refuse audit to all bills and future claims that may be presented . . . including the salaries of the members of the commission, until the validity of this act has been affirmed by the courts.”<sup>23</sup> Frear, in turn, refused to audit the Commission’s accounts, thereby blocking the Commission’s ability to pay its expenses, including the salaries of its members.

With backing from the Civil Service Reform League led by attorney Glenway Maxon from Milwaukee, the Commission took the case to the Wisconsin Supreme Court.<sup>24</sup>

The case directly involved the Civil Service Commission, but had implications for the tax commission, railroad commission and others. The Attorney General argued that such commissions “constituted an impermissible delegation of legislative powers.”<sup>25</sup>

However, the Wisconsin Supreme Court found the civil service act and the commission it created to be constitutional. The decision, *State ex rel. Buell v. Frear* (1911), not only saved the fledgling civil service act

from early extinction, but established the legal basis for administrative rulemaking by commissions.

In 1925, 20 years after the Civil Service Commission was created, Governor John James Blaine gave the Commission the authority to develop classifications and establish pay schedules. A. E. Garey, chief examiner of the Civil Service Commission, drafted major updates to the law in 1929, discussed in the next chapter.<sup>26</sup>

Although the original civil service act created a remarkably comprehensive hiring system, its scope was limited almost entirely to the hiring process. While the Commission advocated for scientific management, listed classifications and salaries, and encouraged training, the original act did not grant it the authority to create class specification descriptions or establish pay schedules. The creation of a comprehensive personnel system was yet to come.

—Dean Paynter

### TIMELINE OF WISCONSIN CIVIL SERVICE • 1905–1929

#### 1905

Wisconsin's first state civil service law was enacted on June 17, 1905, making Wisconsin the third state to establish a civil service system. The law created a three-member Civil Service Commission.

#### 1911

The constitutionality of the civil service act and commission were determined to be constitutional by the Wisconsin Supreme Court in *State ex rel. Buell v. Frear*.

#### 1925

The Civil Service Commission was authorized to develop a statewide classification and compensation plan for classified state employees.

#### 1929

Governor Walter Kohler, Sr. consolidated all civil service into the Bureau of Personnel under the direction of a three-member personnel board. All employees except department heads became classified.





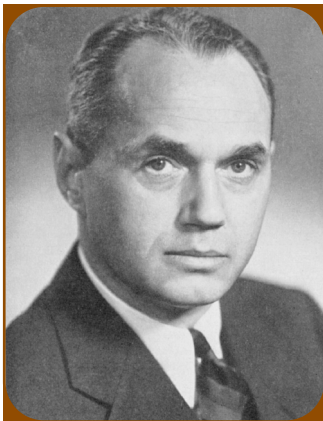
# CHAPTER III



## WISCONSIN STATE CIVIL SERVICE 1929-1959

The next major phase in the administrative history of civil service in Wisconsin began in 1929, with the establishment of the Bureau of Personnel within the executive branch. In response to sustained growth in the scope, complexity, and size of state government operations, the political leaders of the day felt that the part-time, independent Civil Service Commission had outlived its usefulness and that a new institutional arrangement was needed.

In general, state government leaders thought that a stronger executive presence was needed to administer the civil service effectively. The law's focus also had to change from the narrow goal of eliminating patronage to the broader goal of promoting economy and efficiency in government by incorporating new personnel practices patterned after the private sector.<sup>1</sup> State officials were also concerned that civil service coverage had eroded through piecemeal legislative action that had exempted entire departments and groups of employees.



Walter Kohler, Sr. 1929

As Governor Walter J. Kohler stated in his January 10, 1929 address to the legislature, "Continuity of expert personnel is essential. This can be obtained by applying civil service throughout, except only heads of departments. This provision is necessary to safeguard against the development of a political machine."<sup>2</sup>

Accordingly, at the request of Governor Kohler, reform legislation was introduced in the Wisconsin Assembly on April 22, 1929. The measure was drafted by three acknowledged experts in the field of public personnel administration, with the express purpose to "streamline the civil service agency and consolidate the state's personnel program more directly under the Executive Office."<sup>3</sup>

At a legislative committee hearing, the bill was characterized as a "bona fide attempt to strengthen the civil service law"<sup>4</sup> by extending its reach to several hundred exempt positions, including Highway Department employees and state engineers.<sup>5</sup> Although there was some opposition from department heads<sup>6</sup>, the measure received bipartisan support and was enacted into law on September 7, 1929.<sup>7</sup>

The reform legislation was looked upon favorably by the press, with the Wisconsin State Journal reporting: "The new law is said to be the most complete civil service measure in effect anywhere in the United States."<sup>8</sup>

The 1929 law reorganized the administrative structure that had existed since 1905 by abolishing the original Civil Service Commission and replacing it with the new Bureau of Personnel, under the quasi-judicial direction of a three-member Personnel Board. Members of the Board were appointed by the governor for overlapping six-year terms, with the advice and consent of the senate. The new administrative head of the agency was the Director of Personnel, who was given greater executive authority for day-to-day administration than previously exercised by the Commission Secretary and Chief Examiner.<sup>9</sup>

## *Recollections of a State Employee*

*On August 15, 2005 I will have worked 50 years for the State of Wisconsin.*

*I presently work for the Department of Regulation and Licensing. On August 15, 1955, I started as a typist with the Wisconsin Board of Medical Examiners, and in February 1956 I was reclassified to a Stenographer. In 1968 the Board of Medical Examiners was renamed the Medical Examining Board under the Kellett reorganization board. At that time, I applied for that job and was promoted to Administrative Assistant I. In 1972 the Board requested that the title of Executive Secretary be assigned to my position, with supervision of all personnel under the jurisdiction of the Medical Examining Board and all operations and functions of the Board. I was reclassified to Administrative Assistant 3 and then to Administrative Assistant 5 over a period of years. In 1982, all Executive Secretary positions for Examining Boards were made into unclassified Bureau Directors. Since I was a classified state employee, I resumed the title of Administrative Assistant to the Medical Examining Board in the Bureau of Health Professions. I again took on additional duties of training Bureau Directors, learning the regulations and licensing of 20 other health professions, and supervising staff to those other boards. Several years ago when the Bureau Director left, the Department Secretary appointed me Acting Bureau Director. When a new Bureau Director was*

Continued on next page

The director's position was itself placed under civil service coverage, a feature of the law that was later characterized as "without doubt the outstanding provision in the United States to safeguard civil service administration from political manipulation."<sup>10</sup>

Appointment of the director was made by the governor from a list of three names certified by the Board after competitive examination (in effect, the "rule of three"). The term of appointment was indefinite, with the director subject to removal by the governor with the approval of the Board.

The 1929 act contained many other provisions that served to inaugurate a new era of personnel management in Wisconsin. Most importantly, it authorized the Bureau of Personnel to establish a comprehensive classification and compensation plan for all classified positions under the civil service. Legislation adopted in 1925 had established "positive authority"<sup>11</sup> for developing a plan but its provisions were weak.<sup>12</sup> The new law provided for uniform salary schedules that included minimum and maximum rates of pay, as well as "in-grade" increases for meritorious service. Approval of the compensation plan was tied directly to the state's new budget process, with power to review and approve pay schedules vested in the Joint Finance Committee of the legislature.<sup>13</sup>

Another provision, reflecting industrial management practices in vogue in private enterprise, authorized the Bureau to implement a system for conducting and reporting out "efficiency ratings" of employees.<sup>14</sup> Other changes included more clearly defining state employment practices in areas such as transfers, promotions, and benefits; and, in separate legislation, establishing firm rules for awarding veterans preference points.<sup>15</sup>

Overall, the 1929 law provided the organizational structure and statutory framework that sustained the Wisconsin civil service system for the next three decades. The law infused the staff of the new Bureau of Personnel with a sense of purpose and spirit of professionalism that foreshadowed innovations to come. As stated in the Bureau's first biennial report to the Legislature:

Our system gives practical expression to the principle that all citizens have an equal right to aspire to serve the state. It provides an orderly and of selecting employees. It establishes like pay for like work under

like conditions, subject to variation by employing heads within the schedules established. It is even more comprehensive for it provides means for recognizing meritorious service, after which pay allowances may be based upon efficiency ratings. It establishes for the state a central personnel agency which provides uniformity in handling personnel matters such as recruitments, compensation, promotion, vacations, sick leave, et cetera. This is our field. We are developing an organization to cover it. . . . We proudly claim credit for this department's contributions during the past quarter century to a state government that makes Wisconsin enviably unique among her sister states.<sup>16</sup>

### STRENGTHENING JUST CAUSE PROTECTIONS

Over the course of the next thirty years, the Wisconsin Legislature enacted numerous amendments that fine-tuned the administrative machinery of civil service and expanded the scope of the Bureau of Personnel's functions. One of the most important developments occurred in 1935 when civil service protection for employees was "decidedly strengthened."<sup>17</sup> While the original 1905 law provided that an employee could not be discharged, suspended, or demoted "except for just cause, which shall not be religious or political," there was no mechanism for administrative relief, nor was the appointing authority's decision subject to judicial review.<sup>18</sup> After two highly publicized dismissal cases in 1924<sup>19</sup> and 1934 in which the injured employees were not reinstated, despite findings by that the dismissals were "groundless," critics charged that the law lacked "teeth" and "real" safeguards.<sup>20</sup>

Consequently, with the support of the Personnel Board and Wisconsin State Employees Association, the legislature in 1935 amended the law to allow employees to appeal perceived unjust actions to an impartial third party.<sup>21</sup> As enacted, permanent employees were granted a thirty-day right of appeal for a hearing before the Personnel Board, which was vested with full power to enjoin an action or order other remedies.<sup>22</sup>

### OTHER DEVELOPMENTS IN THE CIVIL SERVICE SYSTEM

The civil service system was expanded and refined in several key ways during the 1930s through the early 1950s. A significant change in the scope of civil service

*named, I was put in the position of Coordinator of the Impaired Professional Program, which is my present job.*

*The highlights of my career were working with different boards, applicants for licensure, attorneys representing licensees, bureau directors, and legislators and continuing to learn ways that would better the citizens of the State of Wisconsin when it came to regulating the professionals. I tried to help everyone—whether an applicant, a disciplined licensee or the general public—feeling that I may need someone's help someday and they would do the same for me.*

*I know it is rare that anyone would stay with one agency for that long, but the work was interesting and the challenges were great. It was worth it all to me when I had the respect I received from my co-workers and board members.*

*I was just notified last week that the Federation of State Medical Boards has nominated me for a Meritorious service award for outstanding contributions in the field of medical licensure and discipline. This award will be presented to me at the national meeting in Dallas, Texas in May 2005 and it is a great honor to receive this award. This is the highlight of my career!*

*To anyone just starting out in the civil service system, I would suggest that they take a job they like, stick with it and learn as much as you can and continue to look for opportunities to advance either in that agency or other agencies.*

*I have truly enjoyed it and may stay for awhile longer.*

—Deanna Zychowski

was implemented in 1937 when the law was amended to place the Beverage Tax Division under civil service. With this change, the “last outpost” of patronage in Wisconsin was “captured”<sup>23</sup> and all positions in state government, except appointive officers and faculty of higher education institutions, were now governed by the merit principle. Interestingly, a similar triumph had been declared in 1931, when coverage was extended to the Banking Department and state librarians, only to be undone two years later by the legislature’s exemption of the newly-created Beer Inspection Division (the predecessor to the Beverage Tax Division).<sup>24</sup>

A number of other legislative changes enacted in this period affected the dynamics of Wisconsin’s civil service system:

1931: The Personnel Director’s executive authority was expanded, continuing the transformation of the Personnel Board into a body that “in practice, considers and rules on questions affecting the state’s civil service policies.”<sup>25</sup>

1937: The Bureau was granted authority to centrally coordinate and promote training programs for state employees, to establish in-service training apprenticeships, and to create internship opportunities for recipients of public service scholarship loans.<sup>26</sup>

1939: A consulting service was formed in the Bureau to provide technical assistance, at cost, to municipal governments for the adoption and maintenance of local civil service systems.<sup>27</sup> This program continues today as Wisconsin Personnel Partners in the Office of State Employment Relations.

1941: The provision allowing the Personnel Board to exempt positions from civil service was repealed, eliminating a loophole that could be (and was) exploited for partisan politics.<sup>28</sup>

1947: A Civil Service Advisory Committee, composed of nine department heads appointed by the governor, was created for the purpose of advising the Bureau on matters affecting personnel administration.<sup>29</sup>

1953: An incentive program, administered by the Merit Award Board, was instituted to reward state employees for suggestions which increase government efficiency.<sup>30</sup> This program continues today as the Employee Suggestion Program.

## IMPACT OF THE GREAT DEPRESSION AND WAR

National crises had a profound impact on the Bureau of Personnel’s work. During the Great Depression, the agency had to wrestle with a number of unique issues related to the ebbs and flows of the national economy and the labor market in particular. During the wage deflation and dwindling state tax revenues of the 1930s, the Bureau advocated for and eventually succeeded in ensuring that the state’s “waiver system,” which allowed the salaries of state employees to be reduced, was administered equitably.<sup>31</sup>



*State employees packing Christmas boxes for soldiers. 1944*

In response to the unprecedented level of federal government activity within the state during the 1930s, the Bureau also sorted out jurisdictional issues, developed class specifications, and administered competitive examinations for new state programs funded by federal dollars (e.g., the State Employment Service and the Wisconsin State Planning Board).<sup>32</sup>



Finally, the Bureau dealt with the problem of the “state’s superannuated employees”—a growing number of aging workers holding on to their state positions as a means of supporting their extended families “during the widespread unemployment of the Great Depression.”<sup>33</sup> While the Bureau advocated for a state retirement system as early as 1934, it didn’t become a reality until 1943. In the interim, the Bureau resorted to the less than satisfactory solution of enacting rules that allowed such workers to be placed on part-time work at a reduced salary.<sup>34</sup>

World War II presented a different set of challenges for the Bureau of Personnel. The foremost difficulty the agency faced was staffing. On the one hand, turnover in the state government workforce was unusually high, with a large number of state employees leaving their positions for the military or for jobs in critical war industries that paid high wages and attracted workers with patriotic appeals.<sup>35</sup> On the other hand, as the nation’s war effort gained momentum, an acute labor shortage developed nationwide and applicants for state positions became scarce. In 1940, the state hired 2,356 workers from an applicant pool of 21,161; in 1943, 4,039 positions were filled from a depleted pool of just 8,568 applicants.<sup>36</sup>

The Bureau took a number of actions to deal with the wartime labor shortage, such as streamlining procedures to speed up the hiring process, implementing a program of paid advertising in newspapers and magazines, giving examinations on a more frequent basis (sometimes daily or at the time of application), and creating war service classes with lowered examination standards for difficult-to-fill positions.<sup>37</sup>

During World War II the Bureau also implemented a cost-of-living bonus program to respond to wage inflation in the general labor market; offered (in cooperation with the War Manpower Commission) train-the-trainer and supervisory training programs to improve employee morale and increase productivity; conducted a classification survey to

address “unusual distortions and interminglings of work assignments” resulting from makeshift staff redeployments; instituted a trainee program for disabled veterans; and managed the reemployment of large numbers of state workers returning from leaves of absence for military service.<sup>38</sup>

The State of Wisconsin faced another severe labor shortage in the 1950s during the Korean War. Again the Bureau of Personnel responded by implementing innovative recruitment and selection techniques. For example, a new “miniature bureau” was opened in the Capitol building for the recruitment, examination, and certification of clerical positions. In addition, the Bureau began scheduling examinations at night and on weekends, actively recruited in high schools and vocational schools, and inaugurated the “cumulative examination technique,” whereby one combined examination with different passing points was administered for clerk, typist, and stenographer positions.<sup>39</sup> Other wartime initiatives included establishing emergency services classifications for positions in short supply, making adjustments to the cost-of-living bonus, and beefing up training activities to offset skill shortages, such as sponsoring refresher courses for stenographers and typists.<sup>40</sup>

By the mid-1950s, the State of Wisconsin had developed a comprehensive personnel management program under the central direction of the Bureau of Personnel and enjoyed a national reputation as a pioneer in the adoption of modern personnel practices and procedures. Within existing resource constraints and priorities, the Bureau was responsible for administering a variety of personnel functions, including

recruitment; examination development, administration, and certification; employee protection rules; position classification; pay plan administration; payroll certification; administration of civil service regulations pertaining to transfers, promotions, leaves of absence, layoffs, etc.; assistance to local units of government; centralized training services; a statewide employee



Men looking for a job during the Great Depression. 1933

performance evaluation system; incentive programs including annual merit salary increases and the employee suggestion program; centralized communication of personnel policies and procedures; and research and development of state personnel policies, programs, and practices.<sup>41</sup>

By the end of the 1950s, the Bureau of Personnel had made the transformation from its origins as an “employment agency” to a full-service centralized personnel shop. As Bureau of Personnel employee William M. Haines noted:

The fifty-year history of civil service in Wisconsin has seen a gradual transition from the traditional civil service agency, primarily concerned with getting people into public service through merit alone, to that of a service agency with a new and broader objective of sound personnel administration. Although the Wisconsin Bureau of Personnel has not lost sight of its responsibility to exercise those controls necessary to safeguard the merit principle, its program emphasis has turned toward that of assistance, in a staff capacity, to departments of state government in the solution of overall personnel problems, and in finding ways and means of improving its service to departments and employees.<sup>42</sup>

## POLITICS AND CIVIL SERVICE

The “official” history of the Bureau of Personnel, as chronicled in biennial reports, Wisconsin Blue Book articles, and other government publications, is that of an agency that championed the merit principle throughout its existence and was an innovator in adopting modern public personnel management policies and practices. The “unofficial” history, as reported in newspaper articles and editorials, is that of an agency that was often criticized for alleged partisan activities and was frequently the center of highly-charged political debate.

Political discourse of this nature is inherent in a democratic system of government where “the tension between the society’s desire for depoliticized, merit-oriented public services and its interest in enabling elected representatives to effectuate their policies” makes the “institutional arrangements for public personnel administration subject to constant reevaluation

and modification.”<sup>43</sup> Indeed, by one account, by the end of the 1943 legislative session, 146 attempts had been made to amend or “kill” Wisconsin’s civil service law.<sup>44</sup>

In general, the Bureau was embroiled in controversy whenever the statehouse changed hands through the electoral process. The incoming party or faction sought greater control over state government through the appointment of officials and employees loyal to the new governor, and wanted those loyal to the old regime replaced. The rub, of course, was that the state’s civil service laws stood in the way.

Therefore, various legislative bills were introduced in an attempt to limit or curtail the authority of the Bureau of Personnel. As discussed below, on at least one occasion during this era, legislators sought to eliminate civil service altogether. On other occasions, purported reform bills were put forth that in practice would have had the same effect. In other instances, attempts were made to place the Bureau under the direct control of the governor rather than the independent state Personnel Board. Along the way, various measures were introduced (and sometimes passed) to exempt newly created or reorganized departments or large groups of employees from civil service coverage.<sup>45</sup>

The first major challenge to the Bureau of Personnel came in 1933 when, as a result of the Roosevelt landslide, the Democratic Party took over the Wisconsin governorship for only the third time since 1856. Believing they had a mandate for change, the Democrats, led by Governor Albert G. Schmedeman, took the position that legislation was needed “to wipe out the entire civil service organization to give the state a complete Democratic administration.”<sup>46</sup>

The original bill introduced by Senator William Carroll called for an outright repeal of the civil service law, but a substitute bill was quickly introduced which would have eliminated the Bureau of Personnel and Personnel Board in favor of a single civil service director reporting directly to the governor. According to its proponents, the legislation was needed because the Bureau was under the partisan control of the Progressive wing of the Republican Party.<sup>47</sup> To its opponents, the proposal was little more than a disguised effort to end civil service.<sup>48</sup> One editorial characterized the bill as a “vicious and deceptive”

attempt by “a coalition of reactionaries” to “ruthlessly strike at the heart of good government in this state.”<sup>49</sup> Another stated that “civil service in Wisconsin has come on evil days,” and that the bill would fix alleged problems “by destroying the system altogether, except in name.”<sup>50</sup>

After much legislative maneuvering and acrimonious debate, a coalition of Democrats and Stalwart Republicans passed the measure in the senate and sent it to the Democrat-controlled assembly, where easy passage was expected.<sup>51</sup> Instead, the assembly overwhelmingly voted to defeat the measure after one newspaper ran an editorial and published “documentary evidence” that utility lobbyists, unhappy with the aggressive rate-cutting practices of the Public Service Commission, were working behind the scenes to get the bill passed “to strike an undercover blow” to that agency.<sup>52</sup> After the “crisis” passed, the state personnel director characterized public opposition to the failed bill as “a complete revulsion on the part of the people of the state,” and singled out the League of Women Voters for the role they played in defending Wisconsin’s civil service system and promoting the “movement” nationally.<sup>53</sup>

A second major challenge to the Bureau of Personnel occurred in 1939. The Stalwart Republicans wrested the governorship from the Progressive wing of the Republican Party in the September 1938 primary, opening the door to the election of Governor Julius Heil. During the next legislative session, a wave of measures was introduced by to curtail civil service,<sup>54</sup> including a bill introduced by Representative William Goldthorpe that proposed to:

- Abolish the current Personnel Board and recreate a new one appointed by the governor;
- Remove the Personnel Director from civil service protection;
- Remove 4,500 temporary and seasonal jobs from coverage;
- Exempt legislative employees from civil service (a unique feature of Wisconsin’s law);

- Give department heads, with gubernatorial approval, the authority to remove positions from civil service; and
- Extend from three to five the number of names certified for appointment consideration.<sup>55</sup>

Supporters of the bill again hailed it as a civil service reform measure. Turning the original rationale for the creation of the civil service system into an argument for its demise, they claimed that the Bureau was little more than a “racket to supply and hold jobs for henchmen and friends of the Progressive Party which created it.”<sup>56</sup> Opponents, including the National Civil Service Reform League, the League of Women Voters, labor unions, and The Capital Times, again denounced the proposal as a veiled attempt to destroy civil service.<sup>57</sup> Its cause wasn’t helped by newspaper accounts of Goldthorpe’s publicly stating at a political gathering, “The spoils go to the victor. There is no question about that.”<sup>58</sup> In the end, the measure proved to be short-lived and went down in defeat after the Republican Assembly Speaker led a floor fight against it, despite accusing the preceding governor of “malfeasance” in administering the civil service law.<sup>59</sup>

The Bureau of Personnel was in the forefront of political debate a third time in the spring of 1947, when a special legislative committee investigating the bureau sponsored a bill to reorganize the agency.<sup>60</sup> The proposed law would have abolished the existing structure and replaced it with a three-member, full-time commission and an unclassified executive officer appointed by the governor.

Significantly, this measure was different than those described above because allegations of partisanship were not an issue, nor was the institution of civil service being questioned. Instead, the competency of the current personnel director was under attack, as well as the alleged lack of oversight provided by a part-time board. Legislators were angry with the director because they felt he was too sympathetic to the Wisconsin State Employee’s Association on wage increases and other monetary issues and was not looking out for the state treasury in a time of fiscal constraint.<sup>61</sup> Department heads were also reported to be unhappy because the Board had reinstated a number of discharged employees. Again, state labor leaders

and national experts came to the bureau's defense, criticizing the proposal as "throwing civil service directly into politics" by putting the director's appointment on a "purely political basis which has never been found in any state civil service law heretofore written."<sup>62</sup> After passage in the senate, the bill went down to defeat in a stormy assembly session replete with charges of logrolling.<sup>63</sup>

### SURMOUNTING ACCUSATIONS OF HOAKUM AND HUMBUGGERY

During the 1930s and 1940s, newspaper coverage of the Bureau of Personnel was often negative, frequently criticizing the agency for questionable personnel practices and examination techniques. Examples abound, including headlines such as "Woman Member Charges Outside Interest Control Personnel Bureau's Appointments,"<sup>64</sup> "Liquor Tax Inspectors Campaign at State Expense,"<sup>65</sup> "Wisconsin Slipping as a Civil Service State,"<sup>66</sup> "Why was Law Ignored?,"<sup>67</sup> "State Civil Service is Due for Overhauling,"<sup>68</sup> and "Much Hoakum in State Civil Service":

With the development of civil service, however, have come tricks and loopholes to beat the principle of civil service. . . . There are now backdoors through which favored applicants for jobs can be ushered. . . . There is a lot of hoakum in this civil service business and some day there will be an exposé of the humbuggerly that has transacted under the guise of civil service.<sup>69</sup>

Indeed, it was even reported that the former long-standing director of the Bureau, who had earnestly defended its practices in the political controversies of 1933 and 1939, was "frank enough to admit at one time that in some cases political pressure had been effective in the choice of appointees."<sup>70</sup>

By 1950, however, most press coverage was overwhelmingly positive, with much "hometown" pride in the state's rich tradition of non-partisan civil service, especially as compared to employment practices in other states and at the federal level. Representative quotes include:

It is difficult to conceive, although statistics for comparison are not at hand, how any state in the nation

could have applied the merit principle more thoroughly and rigidly in recruiting for state service jobs than has the State of Wisconsin. . . . The idea of merit examinations for state government workers is so well entrenched that it will probably never be challenged.<sup>71</sup>

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To a degree that is rarely realized, however, patronage has been virtually extinguished in the state service. . . . The best law is not self enforcing. There are ways to evade the civil service law if the civil service administrators want to evade it. . . . But it is worthy of notice that there is little or none of that practice today for there hasn't been a complaint about civil service administration in Wisconsin for years. . . . For all practical purposes, patronage as an instrument of party politics has disappeared in Wisconsin state government.<sup>72</sup>

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The merit system is one of the most firmly established policies in state government and a tribute to the common sense of the people of Wisconsin.<sup>73</sup>

### *Recollections of a State Employee*

*My employment in Wisconsin state government lasted 20 years, first at the University of Wisconsin-Madison and then at the Department of Revenue (DOR). I was hired by DOR as an Administrative Officer in 1976 to oversee the Affirmative Action, Employee Assistance and Employee Development and Training programs. I really enjoyed what I had to do and had support from the Department through funding and staff for the programs. We developed career ladders for women employees in the Department and were successful in promoting and retaining many talented women in the civil service system.*

—Agnes Cammer



Such sentiment was particularly evident in articles that appeared before a general election,<sup>74</sup> after a change in administration, whenever a new personnel director was named,<sup>75</sup> and upon the occasion of the fiftieth anniversary of Wisconsin's civil service law in 1955.<sup>76</sup> The change in press coverage from the disparaging articles of the 1930s and 1940s to the glowing accounts of the 1950s is reflective of the maturation of the Bureau of Personnel and systemic reform induced by the political process.

The Bureau of Personnel made great strides in implementing a comprehensive personnel management program for the State of Wisconsin. For sure, the agency faced many challenges along the way, including the Great Depression, World War II, and the Korean War, as well as the trial and tribulation of periods of intense legislative oversight, highly-charged political debate, and harsh media scrutiny. Still, at the twilight of its existence, with major institutional reform on the horizon, the Bureau had established a proud legacy of achieving the ideals of a non-partisan civil

service in Wisconsin. As the eminent political scientist Leon Epstein wrote in 1958:

One important respect in which Wisconsin practice differs from that of many states is the very limited role of patronage in the political process. Aside from a handful of high-level positions, mainly filled by gubernatorial appointment, the state government is staffed—and has been largely so for half a century—by a well-developed civil service recruited by competitive examinations. It is impossible for an individual candidate or a party to build a political organization based on state patronage appointments or on the prospect of such appointments. Civil service is of such long standing and so taken for granted that a party would run great political risks if it sought to introduce large-scale patronage. The prohibition of political activity by civil service employees is accordingly a meaningful regulation.<sup>77</sup>

—Mark Isenberg

## TIMELINE OF WISCONSIN CIVIL SERVICE • 1929–1959

### 1933

A legislative effort to dismantle the civil service system failed.

### 1935

Employees were granted the right to appeal discharges to the Personnel Board.

### 1937

Beverage Tax Division was brought from the State Treasurer's Office into the classified service. This is the last significant group of employees to be brought into the civil service.

### 1939

The Legislature authorized the Bureau of Personnel to assist counties, cities and villages that have civil service systems.

### 1941

State law was modified to require job classes to be based on similarity of job duties.

### 1954

The Employee Suggestion Program was created as the Merit Award Board.

### 1957

Limited Term Employment (LTE) was created. The Director of Personnel was authorized to establish rules for recruiting and examination and also given ability to waive residency and citizenship requirements for professional employees.



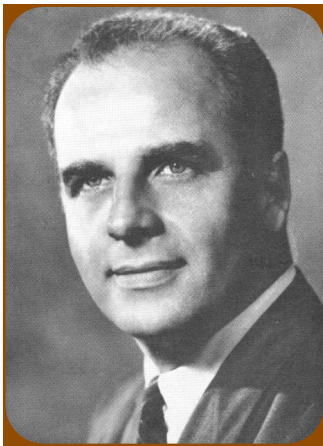


## CHAPTER IV



### WISCONSIN STATE CIVIL SERVICE 1959–PRESENT

A new era for the Bureau of Personnel began to take shape in November 1958, when Governor-elect Gaylord Nelson began preparing his 1959-1961 budget recommendations. Noting that “current revenues cannot meet the demand for appropriations,” Nelson vowed, “I aim at reducing these requests.”<sup>1</sup>



Gaylord Nelson 1960

With the assistance of his financial secretary, Joe Nusbaum, and his chief reorganization technician, Howard Koop, Nelson began planning for the reorganization and consolidation of state government.<sup>2</sup> Their intention was to have one agency that would contain all administrative functions to serve its customers—the other state agencies.

The end result of this plan was legislation creating the Department of Administration, enacted in 1959. The functions of the Bureau of Personnel and the Personnel Board were transferred to the Department of Administration, along with areas such as procurement, budget, and engineering. The new Department of Administration’s mission was to provide centralized oversight over the state’s administrative operations, as a means of ensuring that the state’s fiscal resources were allocated efficiently and that state services were delivered effectively.<sup>3</sup>

Besides the organizational change, the move to the Department of Administration had little impact on the Bureau of Personnel. Carl K. Wettengel continued to serve as the Director of the Bureau. He also served as the head of the State Personnel Board, which was authorized to administer the civil service statutes and to conduct hearings on appeals from state employees related to personnel matters. The Personnel Board consisted of three members and an additional two *ex officio*, nonvoting members.<sup>4</sup>

#### CHANGES TO THE PERSONNEL BOARD

In 1961, legislation was passed that modified the structure of the Personnel Board and changed its authority. The Board was removed from the Department of Administration. The *ex officio* members were eliminated, and the Board was expanded from three members to five members. All of the members were appointed at the discretion of the governor; however, each appointee was required to meet specific qualifications. In addition, two members were required to have personnel management expertise, and one member was required to be an attorney.

The legislation significantly reduced the Board’s authority. Previously the Board had the ability to review and amend rules proposed by the director of the Bureau of Personnel. The 1961 legislation eliminated the Board’s authority to amend rules, leaving it with the authority only to review and approve proposed rules.<sup>5</sup>

### LABOR RELATIONS IN THE LATE 1960S TO EARLY 1970S

The state's relationship with its employees changed significantly in 1967, when the State Employment Labor Relations Act (SELRA) was passed. This legislation gave unions representing state employees the right to collectively bargain with the state on specific subjects. These areas included grievance procedures, application of seniority rights, schedules, time off, interdepartmental transfers, and other non-monetary subjects. Wages, hours, other economic issues, and matters that would affect the civil service system were specifically excluded from collective bargaining.

While the ability to bargain over non-monetary items was an important first step in extending the right of collective bargaining to state employees, the unions advocated strongly for the ability to bargain wages and fringe benefits. To address these concerns, Governor Warren Knowles appointed the Governor's Advisory Committee on State Employment Relations to recommend changes to SELRA.<sup>6</sup> In 1971, in accordance with the committee's recommendations, SELRA was amended to extend to represented state employees the right to collectively bargain wages, hours, and working conditions. State labor history is discussed in more detail in Chapter 5.

### MODERNIZATION OF CIVIL SERVICE

The 1971 legislation also significantly redefined the rules and regulations governing personnel management in state government, as recommended by a task force that conducted an extensive review of the state's civil service system.<sup>7</sup> The group's task was to identify ways to modernize and improve the civil service system.

Daniel Wallock, who later served as the administrator of the division of merit recruitment and selection, observed:

While a great many other changes have since been made, the concepts contained in this 1971 legislation clearly laid the modern foundation of the system we have today . . . virtually every personnel management area was significantly redefined and/or clarified.<sup>8</sup>

Management positions in state service were particularly impacted by the 1971 changes. Top-level management

positions within the classified civil service were not exempt from the merit process. In many situations, administrators and agency heads felt that they needed more flexibility to fill upper management positions.

The career executive program was established to meet these concerns. The career executive program applied to high-level managers in the classified civil service. Initial appointment to a career executive position was through competition. However, once a person was in the program, more flexibility was permitted. The law permitted a career executive to be reassigned to another comparable position without competition. The program thus gave state agency leaders more flexibility to assign duties to high-level managers, and gave career executives employees more flexibility in career advancement.

The act also authorized selection procedures designed to promote the hiring of disadvantaged and disabled individuals; modified probationary periods; eliminated some citizenship and residency requirements; and allowed the personnel director to establish classifications with approval from the Personnel Board.

### INNOVATIONS TO IMPROVE EMPLOYEE PRODUCTIVITY AND RETENTION

The state initiated several programs designed to support current and potential state employees. These programs complemented the civil service by fostering productivity and helping avert unnecessary turnover of highly-qualified workers.

For example, the employee assistance program was established to help employees obtain assistance with problems related to alcohol and other drugs. This program still exists and has been expanded to provide employees with the means to obtain assistance with any personal issue that may affect their performance at work.

Not all experimental programs to support state employees succeeded in the long term. Project JOIN (an acronym for Job Options and Innovations) lasted approximately two and a half years in the late 1970s. Its purpose was "to research job sharing in professional and para-professional positions within Wisconsin civil service." The goal behind this project was to find ways to accommodate flexible and part-time work

schedules for employees who could not or chose not to work forty hours a week.<sup>9</sup> Although Project JOIN was not renewed after its two-and-one-half year run, flexible hour schedules and part-time schedules are still permitted when they can be accommodated in light of state business needs. The state also piloted a daycare center in 1987 in an effort to enhance worker productivity. However, the pilot failed due to lack of funding.<sup>10</sup>

The Comprehensive Employment and Training Act, which was implemented in the mid-1970s and lasted about six years, was a training program intended to encourage agencies to hire and re-train people who had been unemployed for some time, including minorities and women in non-traditional jobs.<sup>11</sup> The program attempted not only to give agencies more hiring flexibility in a tight labor market, but also to open another door to state employment to these potential employees.

These programs, while short-lived, represent a healthy spirit of innovation within the civil service system. This willingness to experiment has allowed the system to adapt to the changing labor market, evolving needs of the state government workplace, and increasing diversity of state employees and state job applicants.

### THE STEVENS-OFFNER COMMISSION AND CREATION OF THE DEPARTMENT OF EMPLOYMENT RELATIONS

Carl K. Wettengel served as director of state personnel from the late 1950s to the late 1970s. Upon his retirement, the Personnel Board was faced with the challenge of filling the position. In its effort to do so, the Personnel Board found itself in the center of controversy. Filling the position took over three years. The Board was accused of favoritism in the examination process and other misconduct. Two members of the Board resigned as a result of these charges; two other members were removed from office after they were found guilty of malfeasance. One newspaper columnist described the fallout from this incident as “a loss of creditability for Wisconsin’s civil service system.”<sup>12</sup>

In 1976, the Employment Relations Study Commission, subsequently referred to as the Stevens-Offner Commission after its co-chairs, was appointed by Governor Patrick Lucey. The commission was charged with reviewing Wisconsin’s civil service system. The

Commission had been convened due to a perception that the system was:

so rigid that those in charge of agencies cannot make the best use of personnel resources. Employees confront needlessly stagnated career opportunities and cannot make the best use of their talents and interests. Selection processes, often unwittingly, screen out able women, minorities, and handicapped, contributing to continued imbalances in the civil service.<sup>13</sup>



Patrick Lucey 1973

Echoing concerns expressed at the time of the 1929 reforms, the Commission explained that the problem was not what the civil service system prevented, noting that the system had “remained free of patronage and favoritism,” but rather what the system failed to accomplish as a “positive tool” for public administration.<sup>14</sup>

The Commission’s report led to legislation enacted in 1977 that implemented major changes to Wisconsin’s civil service system and its administrative structure. The 1977 act created the Department of Employment Relations (DER) to direct, manage, and administer the state government personnel system.<sup>15</sup> In recommending the creation of a new department, the Commission stated that its intent was to “provide the State of Wisconsin with an organizational arrangement for its personnel system that is efficient, insulated from forces that might compromise the merit system, and responsive to the needs and wishes of the public.”

The Commission perceived an inherent tension between the goals of accountability and insulation: increasing the discretion of state officials in making appointments or other personnel decisions may, if abused, lead to favoritism; while policies intended to insulate the system from favoritism may result in a system that is too rigid and unresponsive.<sup>16</sup> The Commission sought to balance these two goals in its recommendations regarding the new Department of Employment Relations.

To increase accountability to the governor and legislature, the Commission recommended that the head of the new Department of Employment Relations be appointed directly by the governor and confirmed by the state senate. To provide better “insulation”—i.e., to protect the integrity of the civil service system—the Commission recommended a separate appointment process for the administrator of a division of merit employment within the department.

Under the Commission’s proposal, the administrator was to be recruited through a competitive process, with candidates reviewed by a screening panel consisting of the chair of the Personnel Advisory Council, the chair of the Equal Rights Council, the speaker of the assembly, the president *pro tem* of the senate, the president of the State League of Women Voters, and the chair of the state Personnel Management Council.<sup>17</sup> Notably, the screening panel included neither the governor nor the secretary of the Department of Employment Relations. The panel was to provide a list of ten names to the department secretary, who would appoint an administrator. The appointment would then be subject to senate confirmation.

The legislation that was ultimately enacted provided a more streamlined appointment process for the merit employment administrator, primarily by dropping the screening panel of specified officials. However, the legislation retained a merit-based recruitment; selection by the governor from a list of certified names; and confirmation by the senate. Whereas the secretary served at the pleasure of the governor, the administrator was appointed to a fixed five-year term. These two appointment processes exemplify the Commission’s aims of simultaneously providing both accountability to, and insulation from, the political process.

The Commission also sought to bring more flexibility into the state’s hiring processes, which it viewed as unreasonably rigid. The most significant change it recommended was modification of the storied “rule of three,” a traditional feature of many civil service systems. Under the “rule of three,” only the three applicants receiving the highest score on the civil service examination would be “certified”; the hiring authority could interview only the certified candidates and was obliged to appoint one of the three for the position. As the Commission observed, this rule “placed heavy reliance on objective examinations, limit[ing] the discretion of appointing authorities.”<sup>18</sup>

The Commission recommended replacing the rule of three with a new rule that would permit certification of five names, or up to ten names if more than fifty qualified applicants were registered. The Commission acknowledged that five was just as arbitrary as three, but felt that some flexibility would be gained by the increase in certified applicants. The legislature enacted the Commission’s change in 1977. In later years, the rule was amended again to eliminate the requirement of any fixed number of certified names.<sup>19</sup>

The Commission also recommended expanding collective bargaining to permit the state and the state employee unions to bargain both the assignment of positions to classifications and the assignment of classifications to pay ranges. The Commission reasoned that these topics related to compensation, and permitting them to be bargained would not undermine any merit-system principle.

However, this proposal did not make the cut for the 1977 legislation. In 1987, the legislature ultimately extended collective bargaining to the assignment of classifications to pay ranges, leaving the assignment of positions to classifications under the authority of the Department of Employment Relations.

### *Recollections of a State Employee*

*I started in the civil service system as a teacher at the Green Bay Reformatory in 1948 and ended my career as the superintendent of Ethan Allen School in 1985. I enjoyed each step in my career, especially the direct contact with the kids. I always tried to impart knowledge. At Wales I made time for direct services after school hours from 3:00 to 4:30 pm. I believe that institutions were created to fill a human need; they are not just a place to work. Grown “kids” are still in contact with me. Lots of the kids who went through the system are working in professional positions.*

— Roland C. Hershman



Another key proposal for improving democratic accountability was that positions with major policy-making responsibility at all state agencies should be unclassified, with appointments at the discretion and pleasure of the agency head. At the time of the Commission's study, a number of such positions had been made unclassified on a piecemeal basis, mostly in three of the larger agencies. The Commission recommended a consistent approach to provide more accountability and responsiveness in the executive agencies.<sup>20</sup> Although the Commission proposed that the administrator of merit employment be authorized to designate the top agency positions that should be unclassified, the legislature instead identified the unclassified positions at each agency statutorily.

In addition to those highlighted above, the Commission proposed a slew of other changes to the civil service system, many of which were designed to improve the mobility and advancement of employees within state government. The Commission also recommended the creation of a state personnel commission to hear all appeals in personnel matters, noting that the system then in effect was a "tangled web of routes and rights," involving multiple appellate bodies with overlapping jurisdiction.

The Stevens-Offner Commission's comprehensive and perceptive report remains an important analysis of the civil service system. The Commission elucidated the fundamental tension between providing a government that is accountable to the people, while insulating the civil service from partisan pressures. The need to balance these competing values within the system's policies and rules is just as compelling today.

### REMEDYING INEQUITIES

In the 1980s, several initiatives were implemented to ensure that the civil service system provided fair and equal treatment to job applicants and employees who belonged to historically disadvantaged groups.

In the mid-1980s, a task force was convened to examine the issue of comparable worth and pay equity. As a result of this task force, legislation was passed in 1985 that required the state to remedy any pay inequities between the genders and the races. These actions reflect the state's commitment to achieve equal pay for equal work within the civil service.<sup>21</sup>

The 1980s brought other modifications to the way the civil service system operated. For example, in 1985, the United States Supreme Court held that the Fair Labor Standards Act (FLSA) applied to public sector employers. When originally enacted, public sector employers were exempt. The Supreme Court's 1985 decision standardized the application of the Act's minimum wage, overtime pay, child labor, and record-keeping provisions to encompass both private and public sector employers.<sup>22</sup> While the decision did not significantly affect state policies and practices then in effect, it clarified the applicability of federal employment protections to state government and its employees.

Another new program was the cooperative education program (CEP). The CEP was designed to recruit students enrolled in two- or four-year colleges within Wisconsin to apply for state government jobs. Special emphasis was placed on recruiting members of groups targeted for affirmative action goals. The program's intent was to provide a relevant and challenging part-time work experience to college students, and then to transition them to full-time permanent positions after they graduated. The program continues to be a viable option for recruiting qualified applicants, particularly members of target groups, for entry-level civil service positions.

Expanded certification was another policy designed to increase equal access to state jobs for members of groups targeted for affirmative action. Initially implemented by administrative rule, the program was codified in the Wisconsin statutes in 1985. It authorized the administrator of the division of merit recruitment and selection to certify additional qualified applicants for interviewing and selection. In addition to certifying the five applicants with the highest scores on the civil service examination, the administrator was authorized to certify additional names of women, minorities, and disabled people who had also passed the examination.<sup>23</sup> This policy gave state agencies more opportunities to interview and hire qualified women, minorities, and disabled persons for civil service positions. It remains in effect to this day.

In 1988, the Department of Employment Relations began offering training workshops on the state civil service examination process to recipients of public assistance. The goal of this effort was to assist aid recipients in navigating the hiring process and obtaining employment with Wisconsin state government, allowing them to achieve independence from public

assistance programs.<sup>24</sup> Today, the Office of State Employment Relations continues to pursue this goal by working with state job centers and private sector partners, as well as state agencies, to ensure that public aid recipients have access to state civil service positions.

The history of the state's affirmative action efforts is outlined in greater detail in Chapter 6.

### IMPROVING THE HIRING PROCESS

In the 1990s, the Department of Employment Relations continued to modify and refine civil service rules to streamline the hiring process for both state agencies and job applicants. Programs such as the entry professional program and the critical recruitment program were founded in an effort to permit faster hiring for particular types of positions. Testing also became more flexible; for example, applicants were allowed to “walk in” to test at civil service examination centers without applying in advance.

### THE COMMISSION ON THE REFORM OF THE STATE HUMAN RESOURCE SYSTEM

In 1994, Governor Tommy G. Thompson established the Commission for the Study of Administrative Value and Efficiency, known as the SAVE Commission. Its mission was to define the role of state and local government for the future. Several of the Commission's recommendations related to the state civil service system. As a result of the SAVE Commission's report, Governor Thompson established the Commission on the Reform of the State's Human Resource System.

Like its predecessors, the Commission on the Reform of the State's Human Resource System viewed its goal “not...to ‘tear down’ the basic structure of Wisconsin's civil service system, but to streamline it, modernize it, and make it less rigid.”<sup>25</sup>

Legislation was enacted in 1997 that implemented many of the Commission's recommendations. The changes included:

- Implementing a flexible rule for certifications. The new law allowed the administrator of the Division of Merit

Recruitment and Selection to determine the appropriate number of names to certify based on statistical methods and agency needs.

- Repealing the requirement that classified positions be filled only by Wisconsin residents.
- Repealing the ban on out-of-state recruitment for classified positions.
- Allowing employment registers to expire in three months, instead of six months. This change allowed the employment registers to be refreshed with new applicants more frequently.
- Repealing the requirement that one member of an oral examination panel be from outside the state civil service.
- Permitting non-competitive appointment of disabled veterans to entry professional and non-professional vacancies.

### PAY AND CLASSIFICATION SYSTEM REFORM

The Commission also made a variety of recommendations to modernize the state's classification and compensation systems. The Commission noted that the classification system, which then consisted of over 2,000 classifications, had become an unwieldy method of compensating employees based on their skills and experience. The Commission recommended reducing the number of classifications and developing compensation policies that would reward performance and permit greater flexibility for pay on appointment. The outcome of this recommendation was the development of the broadbanding pay system and streamlining of the classification system.

The civil service system had created a traditional, hierarchical classification and compensation structure with a large number of job titles (classifications) and a few straightforward pay ranges. Though inflexible, the system prevented salary manipulation and provided predictable expenditures for budgeting purposes.



In past decades, the stability of a civil service career helped insulate the state from some of the recruitment and retention problems common in the private sector. By the mid-1990s, however, the state workforce had developed severe recruitment and retention problems due to competition from the external labor market. The appeal of a lifetime career in state civil service had waned for new generations of employees taking state jobs. As a result, the existing inflexible compensation policies had become less effective in fostering recruitment and retention.

In response to this changing labor environment and in accordance with the Commission's recommendations, the Department of Employment Relations developed a broadbanding compensation system. Broadbanding provides more flexibility than systems traditionally used in the public sector. It consolidates many job classifications into broader definitions, and combines salary ranges into fewer pay bands with comparatively wide salary ranges. Broadbanding systems had been used extensively in the private sector and by the federal government before being adopted in the State of Wisconsin.

Broadbanding was implemented in the 1997-1999 Compensation Plan for non-represented senior managers and information systems professionals, occupations that faced intense labor market competition. Many classification titles were eliminated and employees were positioned within the pay bands based on labor market data or occupational affiliation. Fixed pay increases were abolished in favor of flexible pay increases.

In April 1998, as part of their collective bargaining agreement, the Wisconsin Federation of Teachers (now AFT-Wisconsin) agreed to broadbanding for represented information systems professionals. Over the next several years, broadbanding was expanded to other

### *Recollections of a State Employee*

*I was a student at the university and worked in the Physics department to make extra money. I was a radar tech in the service and was interested in electronics but the physics department didn't teach electronics. In the spring of '49 the person running the electronics shop quit and went back to get his degree. I said I would do it so I quit school. This was an exciting place. Radar guys from MIT were going to school here. Famous people came through here. Going to lunch with them, it was fun. It is still fun.*

—Myron Murray, longest-serving current state employee

represented employee groups. Broadbanding now covers over 10,000 represented and nonrepresented classified state employees. Streamlining of the classification system due to broadbanding and other reforms has led to a reduction in the number of classifications from a high of over 2,000 to around 1,800 in 2005, with additional reductions planned.

While the system has provided more pay flexibility, simplified

the classification system, and addressed recruitment and retention issues, the system has not been without controversy. The press, state legislators, labor unions, and others raised concerns periodically about the discretion the system grants state officials in making salary decisions. In response to these concerns, the Office of State Employment Relations strengthened its oversight and monitoring in 2003 to ensure that agencies utilize the program appropriately and consistently.

### **AUTOMATING PERSONNEL TRANSACTIONS**

Technology has also played a significant role in improving the civil service system. For much of the system's 100 year history, personnel transactions were conducted manually. In 1988, the state implemented electronic systems that began to replace many manual functions. With the launch of the WiscJobs web site in 2002, job announcements can now be viewed over the Internet by job seekers around the globe. In addition, applicants can submit job applications, take certain civil service exams, receive their scores, and track the progress of recruitments online. WiscJobs includes a secure site that gives agency managers and human resources personnel immediate access to applications and automates many hiring procedures.

## *Recollections of a State Employee*

My service as a state employee began in March 1937, late in the Great Depression and would continue for 41 years until 1978. Many applicants sought state jobs and participated in various civil service examinations. Examinations were given on Saturdays in 12 to 15 high schools and were repeated every one to three years.

Following participation in a written and oral exam, I was certified along with two others for an entry level personnel examination position. I served a six month probationary period, after which I became eligible for vacation at the rate of three weeks for a full year of service. I likewise became eligible for sick leave credits at the rate of one day for each month of service. The state salary plan established two salary minimums for employment. Professional positions were offered \$150 per month starting salary. Labor and clerical positions started at \$75 per month. No probationary salary increases were authorized.

Offices were open for business 38 or 39 hours per week, varying from summer to winter. Lunch hours were from 12:00 to 1:30. Parking in Capitol driveways was unregulated and generally unavailable. Time for coffee breaks wasn't authorized; however, many employees did participate in a break. Governor Rennebohm looked with disfavor at the employees that left the building for breaks and initiated a "milk cart" tour of offices. That didn't last long, however, as the milk cart was too heavy for the "dairy maid" that pushed it.

No offices were air conditioned and it became extremely hot after three days of hot weather. Windows were closed at night, thus trapping all the heat inside. Men could smoke at their desks, but women were expected to go to the restrooms to smoke.

Overtime was not regulated and generally ignored or handled informally.

Business travel by car was reimbursed monthly for miles traveled. No travel was authorized at one's headquarters city. Travel by bus or train was frequently the practice between major cities.

No pension program existed and no participation in social security was available. Initially there was no state program for health insurance. At fellow employees' requests, I initiated participation in an employee-paid program within the Bureau of Personnel. Each quarter, I collected the necessary fees and sent them to an insurance carrier. Two years later, the legislature approved a state plan.

During my first three years of service, I received no salary increases, nor did anyone else except my superior. When salary increases were given, funds to pay for them were generated by hiring replacements at a salary lower than a terminated employee. Recruitment at a salary above the minimum was not allowed.

Most institutional employees received two weeks of annual leave, not three as provided other employees. Also, in institutions, there were many positions that required employees to live on the grounds. Pay day came once a month but was quite well accepted on that schedule. Written job specifications for many positions were not proposed until 1948.

During the Depression, opportunities for promotions were few because turnover was light. I was able to acquire promotions as time went on and I became chief of classification and compensation, a position I held for ten years. That involved considerable liaison with the legislature's Joint Committee on Finance. Later with the Department of Natural Resources, I served as administrator of the administrative division which included coordination of activities of eight bureaus.

My tour of duty concluded with retirement with a pension and social security benefits in 1978. At that time, my accrued sick leave credits were converted to cash benefits for health insurance and that paid my health insurance for over 20 years.

All in all, I was very pleased with a career under Wisconsin civil service. Most of the shortcomings of the programs in earlier years were remedied by the legislature and dedicated efforts by administrators and the Personnel Board.

—William A. Matson

## THE OFFICE OF STATE EMPLOYMENT RELATIONS

Under the pressure of a crushing state budget deficit of over \$3 billion, Governor Jim Doyle's budget for the 2003–2005 biennium proposed a variety of measures to streamline the administrative operations of state government, including human resources management. One such proposal was to eliminate the Department of Employment Relations and return state personnel oversight to the Department of Administration. After some modification in the course of the legislative process, the 2003–2005 biennial budget act created the Office of State Employment Relations, replacing the Department of Employment Relations.

The Office was attached to the Department of Administration for purposes of supporting its administrative needs, permitting the new agency to eliminate its division of administrative services and reduce its budget by over \$1 million each year. The remaining three divisions of the Department of Employment Relations—merit recruitment and selection, affirmative action, and compensation and labor relations—were transferred intact into the new office.

The legislation creating the Office of State Employment Relations preserved distinct appointment processes for the agency head and the administrator of its division of merit recruitment and selection, as conceived by the Stevens-Offner Commission in the mid-1970s for the Department of Employment Relations. The director of the Office of State Employment Relations is appointed by, and serves at the pleasure of, the governor. By contrast, the administrator of the division of merit recruitment and selection is recruited through a merit process, appointed from a certified list by the governor, and is confirmed by the senate to serve a term of

five years. The new institutional structure thus retains a mechanism to balance the goals of democratic accountability and civil service integrity.

The 2003–2005 biennial budget act also abolished the Personnel Commission. Its caseload of personnel appeals was divided between the Wisconsin Employment Relations Commission (WERC) and the Equal Rights Division at the Department of Workforce Development.<sup>26</sup> Employees' rights to appeal personnel decisions remained intact, other than the change of venue.

As described above, the Wisconsin Civil Service System has gone through major institutional changes, added key programs, and adopted innovative personnel management practices and technology since 1959. The goals of promoting state government's accountability to the public, while protecting the integrity and stability of the civil service, have remained constant. However, because the environment within which the system operates is always in flux, these goals remain something of a moving target. Changes in the external labor force, technological advances, altered workforce expectations, shifting demographics, and myriad other factors require the balance between these goals to be readjusted frequently.

As the 100 year history of the civil service system makes evident, the system is not and cannot become static. The civil service system's adaptability has allowed it not only to survive, but to enter its second century of existence with renewed vitality, flexibility, and strength.

—Denise Kobout,  
Susan Crawford

## TIMELINE OF WISCONSIN CIVIL SERVICE • 1959–PRESENT

### 1959

The Bureau of Personnel, previously an independent agency, became a bureau within the newly created Department of Administration (DOA).

### 1965

A Joint Civil Service Study Committee (the Kellett Committee) was established to review the entire civil service system. The Committee's recommendations were implemented in statutory changes in 1971.

### 1967

The first state collective bargaining law was passed, permitting bargaining of non-wage items.

### 1969

The Governor's Advisory Committee on State Employment Relations (the Young Committee) was established to review experience under the State Employment Labor Relations Act (SELRA) and make recommendations for change.

### 1971

Legislation was enacted that revised the civil service laws and SELRA, including bargaining of wages.

### 1972

Governor Patrick Lucey issued an executive order creating an affirmative action unit in the Bureau of Personnel.

### 1973

The career executive program, authorized by statute in 1971, became operative.

The state negotiated the first collective bargaining agreements under the revised SELRA with the Wisconsin State Employees Association (now Wisconsin State Employees Union (WSEU)).

### 1974

The employee assistance program began.

### 1977

The recommendations of the Stevens-Offner Civil Service Study Commission were enacted. These legislative changes abolished the Bureau of Personnel and authorized the creation of the Department of Employment Relations (DER). The legislation also created the Personnel Commission to review and decide appeals of personnel decisions.

### 1978

DER was created as a cabinet-level department.

### 1979–1981

DER implemented expanded certification to further the state's efforts to achieve a balanced workforce.

### 1984

A comparable worth task force was created by Governor Anthony Earl, committing the state to the concept of gender pay equity.

### 1988

DER initiated a program to help qualified public benefits recipients compete for state jobs.

Automated human resource hiring systems become operational, replacing manual systems.

### 1998

Statutory changes were enacted to allow more flexible certifications, to lengthen reinstatement to five years, and to repeal residency requirements for job applicants.

Broadband compensation was negotiated into the contract of the Wisconsin Professional Employees Council (WPEC), reducing the number of pay ranges and classifications and giving more flexibility to agencies in setting pay.

### 2002

WiscJobs, an online state job application and testing system, was launched.

### 2003

DER was re-created as the Office of State Employment Relations (OSER), attached to DOA for administrative purposes. The Personnel Commission was abolished and its case load was transferred to the Wisconsin Employment Relations Commission and the Equal Rights Division at the Department of Workforce Development.

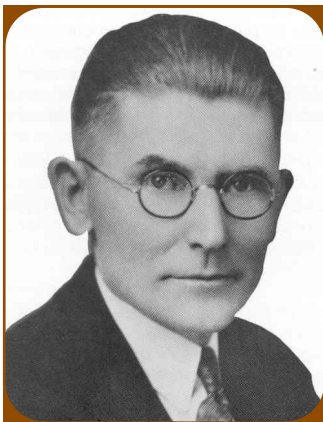
### 2005

The State of Wisconsin celebrates the civil service centennial.

# CHAPTER V

## WISCONSIN STATE EMPLOYEE LABOR HISTORY

The movement for organizing state employees in Wisconsin got underway during the height of the Great Depression. Colonel A.E. Garey, then director of the civil service, met with outgoing Governor Phillip La Follette, a progressive Republican, to propose a new association of state employees.<sup>1</sup> As a result of Garey's efforts, the Wisconsin State Employees Association was formed. The WSEA's members initially were mainly professional employees.



Colonel A.E. Garey,  
Wisconsin Civil Service Director  
later AFSCME legal counsel.  
AFSCME photo

The new Association sought a charter from the American Federation of Labor. The AFL trade unions, comprised of carpenters and plumbers, were uneasy about expanding membership to include college-educated, professional public employees. Nevertheless, the AFL granted a charter to the WSEA in 1932.<sup>2</sup>

Following the November 1932 elections, Democrats swept into elective offices

across the nation on the coattails of Franklin Delano Roosevelt's overwhelming defeat of Herbert Hoover. In Wisconsin, Democrat A. G. Schmedeman was elected Governor, ousting La Follette.

The new administration, in an effort to take control of state government, quickly introduced a bill to dismantle the civil service. Roy Kubista, who later became the long-serving president of the Wisconsin State Employees Union, vividly describes the climate:

One of the first bills introduced in the State Senate in 1933 was a bill to repeal the civil service law. They were that anxious. Colonel Garey told me things were chaotic when the legislature convened in 1933. Unemployed people were camped in the corridors of the Capitol, waiting for the repeal so they could get the jobs that were freed up.<sup>3</sup>

The WSEA, with assistance from the AFL, managed to defeat the bill. The WSEA's success in helping preserve the civil service sparked interest among state employees in the organization. At the time, the Association included approximately 1,000 members.

In 1934, Roy Kubista became executive director of the WSEA, which in time became AFSCME Council 24-Wisconsin State Employees Union. Kubista held that position until his retirement in 1970.

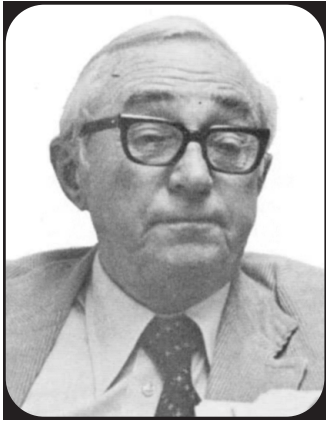
### FORMATION OF AFSCME

Arnold S. Zander, a state personnel examiner who was active in the WSEA, began to promote the founding of a national union for public employees, hoping to gain AFL approval. In 1935, the fledgling union became a "department" of the American Federation of Government Employees, an AFL affiliate. Zander subsequently increased pressure on the AFL to issue a separate charter for an international union with the name American Federation of State, County and Municipal Employees (AFSCME).

AFSCME was granted a separate charter as an international union by the AFL in 1935.<sup>4</sup> Zander was elected as AFSCME's first international president and Roy Kubista was elected secretary-treasurer.



Due perhaps to its civil service origins, AFSCME's initial focus was not on winning the right to collective bargaining, but on promoting and protecting the civil service. Its initial victories were made through lobbying and legislation. Under Kubista's leadership, the



*AFSCME photo  
Roy Kubista, first Secretary-  
Treasurer of AFSCME and long-  
serving executive director of WSEU*

WSEA's lobbying efforts won state employees a 40-hour work week during the 1940s—some two decades before a 40-hour week was granted under federal law to other workers. Kubista also negotiated the first state-employee cost-of-living bonus in the country, and in 1943 helped draft the law creating the Wisconsin Retirement System, the pension plan for state and many other public employees.<sup>5</sup>

AFSCME Council 24-WSEU is now the largest state employee union in Wisconsin. WSEU—AFSCME Council 24 today represents over 20,000 classified state employees in five bargaining units: Blue Collar, Administrative Support, Professional Social Services, Technical, and Security and Public Safety.

Marty Beil, executive director of WSEU, commented on the special significance that the anniversary of the Wisconsin civil service holds for WSEU's members:

The Wisconsin State Employees Union was formed some 70 years ago by the same folks who founded the state civil service system. They understood the need to depoliticize state employment and were the catalyst for the civil service system that we have today. That same group of about 30 state employees launched AFSCME, now some 1.2 million members strong, all of whom believe deeply in protecting and strengthening civil service systems. We're proud that Wisconsin was among the first states to have a civil service system, and we're proud that AFSCME was founded here.<sup>6</sup>

## THE AMERICAN FEDERATION OF TEACHERS

The American Federation of Teachers also holds a significant place in Wisconsin's public-sector labor history. Formed primarily as a teachers' union in 1933, AFT-Wisconsin today represents over 17,000 employees in a wide range of professional occupations in Wisconsin.

The American Federation of Teachers was created in 1916 in Chicago by teacher groups from Chicago; Gary, Indiana; New York City; Scranton, Pennsylvania; and Washington, D.C. Within a month after its formation, the union received a charter from the American Federation of Labor.<sup>7</sup> The new union experienced rapid growth, with 174 locals chartered in the first four years.

The AFT struggled to survive during the economic strife, job insecurity, and union-hostile climate of the Great Depression. Under mounting anti-union pressure from local school boards, AFT membership dropped to fewer than 5,000 during the 1930s—about half the membership of 1920. Teachers were dismissed for joining the AFT. "Yellow-dog" contracts, which required teachers to promise not to join a union, were common.<sup>8</sup> In 1932, Congress outlawed such contracts in the Norris-LaGuardia Act, one of the first laws to protect the rights of workers to unionize. The AFT's membership again began to increase. The Wisconsin Federation of Teachers (now AFT-Wisconsin) was created in 1933. By the end of the 1930s, the AFT's national membership had soared to 32,000 members.

As early as the late 1940s, the union began to play a significant role in the nascent civil rights movement. In 1948, the union stopped chartering segregated locals. In 1957, after the Supreme Court issued its decision in *Brown v. Board of Education*, the AFT expelled all locals that refused to desegregate. The union continued to be actively involved the civil rights movement throughout the 1960s.<sup>9</sup>

AFT's membership continued to expand throughout the 1960s, growing from less than 60,000 members in 1960 to more than 200,000 by 1970.<sup>10</sup> By the mid-1970s, the AFT was the fastest-growing union in the AFL-CIO.



Given AFT's origins as a teachers' union and its long-standing involvement in public education, the first state employee groups to join AFT-Wisconsin were, unsurprisingly, units representing employees in public higher education. The Milwaukee Graduate Assistant Association, representing teaching, project, and program assistants at the University of Wisconsin-Milwaukee, received its charter from AFT-Wisconsin in 1971; the Teaching Assistants' Association, representing teaching, project, and research assistants at the UW-Madison, was chartered in 1973.

Beginning in the mid-1970s, the AFT began to be involved in organizing other groups of professional public employees, in conjunction with the AFL-CIO.<sup>11</sup> During the 1980s, new constituencies sought representation by the AFT, attracted in part by its growing expertise on issues affecting professional employees. In 1983, the AFT created a division for local, state and federal employees. With its expanded scope, the union focused on new issues such as healthcare costs, privatization, state and local budget analysis, and more to serve these new groups.<sup>12</sup>

Thus, by the mid-1980s, the AFT had established itself as a leading professional public employees union, with a membership and scope of interest that extended far beyond its origins as a teachers union. AFT today describes itself as "A Union of Professionals."

In accordance with this trend, several other State of Wisconsin employee groups, representing employees in a range of professions, joined AFT-Wisconsin. The earliest was the Wisconsin Science Professionals, chartered in 1977. By 1996, charters had been granted to five more bargaining units, covering classified civil service employees in occupations ranging from state public defenders to physicians to information technology professionals. All told, AFT-Wisconsin now represents over 10,000 State of Wisconsin employees.

Bob Beglinger, long-serving president of AFT-Wisconsin, explained why professional state employee groups were attracted to AFT-Wisconsin:

The professional employee groups were looking for an organization that could provide quality representation to improve their work sites, and also to help them improve the quality of services they provide to the State of Wisconsin.

## *Recollections of a State Employee Labor Leader*

*I was founder of the State Health Insurance Program in 1944. When I was the Treasurer of Local 13 at Mendota State Hospital, a representative of a firm named Association Hospital Inc. visited me, proposing a Group Hospital Plan for the Local Unions. The members approved it. The premium was \$1.50 per month. I collected premiums each month and sent a union check to the firm which was located in Milwaukee.*

*Sometime later Council 24 succeeded in getting the Legislature to pass a bill which established the Health Insurance Program statewide, with a deduction of premiums from the monthly checks which were sent to insurer.*

*At the time when Local 13 was in control of the plan, one had to be a member of the union in order to have the insurance. Hence, it was not long before nonmembers were joining the union in order to get the insurance. That of course changed when the state took over the state health insurance program.*

*My wife and I had a combined total 70 years of service with the state, and were members of union all those years.*

*During my career as a union leader, I held leadership positions at every level of hierarchy, including president of Council 24 and 16 years as a vice president of AFSCME. I was Assistant Director of Council 24 for 16 years before taking my retirement in 1969.*

—Steve Clark

Our public employees in Wisconsin have a longstanding interest in improving the quality of life they support in Wisconsin. They want quality contracts and working conditions, but they also are interested in helping provide a better life for the citizens of Wisconsin. AFT-Wisconsin was able to meet those needs.<sup>13</sup>

### COLLECTIVE BARGAINING LEGISLATION

The National Labor Relations Act of 1935, known as the Wagner Act, granted collective bargaining rights to private sector employees in companies engaged in interstate commerce. The Wagner Act prescribes the rules under which unions and covered employers must bargain. Many states have enacted so-called “baby Wagner Acts,” extending collective bargaining rights to employees of private companies operating within the state.

The Wagner Act does not apply to public sector employees. Rather, each state is free to establish its own laws regarding the bargaining rights of its public sector employees.

The strength and scope of state public employee bargaining laws varies significantly. Some states, such as North Carolina, Colorado, Tennessee, and Virginia, prohibit collective bargaining by state employees altogether.<sup>14</sup> Three states recently abolished collective bargaining rights that had previously been granted to state employees by executive order, and vacated the existing collective bargaining agreements.<sup>15</sup>

Wisconsin is one of 27 states that authorize collective bargaining for state employees. State law contains an express statement of support for the collective bargaining rights of state employees:

It is the policy of this state, in order to preserve and promote the interests of the public, the employee and the employer alike, to encourage the practices and procedures of collective bargaining in state employment.<sup>16</sup>

Wisconsin’s first collective bargaining law for public employees was passed in 1959 and signed by Governor Gaylord Nelson. That law applied to municipalities, cities, and counties, but not to state employees.

In the 1960s, the Wisconsin State Employees Union pressured the legislature to establish collective bargaining for state employees. In January 1967, the State Employment Labor Relations Act (SELRA) became law.<sup>17</sup> SELRA established limited collective bargaining on issues such as seniority, grievance procedures, work schedules, vacations, sick leave, health and safety, and interpretation of work rules. However, economic matters such as wages were excluded from bargaining.

Both the union and management were dissatisfied with the initial law. The union wanted to negotiate on substantive issues of economics, and management was concerned that the list of mandatory subjects of bargaining restricted management rights. With no economics on the table, neither party had much room to negotiate.

Governor Warren Knowles established an Advisory Committee on State Employment Relations led by H. Edwin Young, economics professor and chancellor at UW-Madison.

The Governor’s Advisory Committee met from February 1969 to September 1970. The committee heard testimony from seventy-nine presenters on seventeen meeting days. The committee sought to address several large questions: the scope of bargainable subjects; relationship of bargaining to civil service; structure of bargaining units; work stoppages and impasse procedures; union security; status of higher education faculties; and status of supervisors and managers.

The Committee’s recommendations essentially outline state labor relations law as we know it today. The recommendations included the following:

- The civil service merit recruitment process should be excluded from collective bargaining.<sup>18</sup>
- Wages, hours and conditions of employment should be mandatory subjects of bargaining.
- Other areas should be “permissive” subjects of bargaining, essentially a recognition of management rights.

- A Bureau of Labor Relations should be established in the executive branch to negotiate on behalf of the state, and the Joint Committee on Employment Relations established on the legislative side to approve a contract or send it back for renegotiation, with final approval by the full legislature.
- Bargaining units should be formed based on “community of interest,” with the Wisconsin Employment Relations Commission having final authority to determine which classifications were appropriately included in the unit.
- State employees should not have the right to strike.
- Employees who chose not to join the union should still pay a fair share contribution toward representation costs.
- Higher education faculties, supervisors, and managers should be excluded from bargaining. Current law allows some supervisors to be represented but not by the same union as their subordinates.

SELRA was amended in 1971 in accordance with the Committee’s recommendations. The essential recommendations of Governor Knowles’ Advisory Committee on State Employment Relations are still in effect today.

## UNION REPRESENTATION OF TODAY’S STATE GOVERNMENT WORKFORCE

Today, about 85% of classified state employees are represented by a labor union. In addition to WSEU and AFT-Wisconsin, each of which represent several bargaining units, state employees are represented by several independent associations, including the Association of State Prosecutors, the State Engineering Association, the Wisconsin Law Enforcement Association, and the Wisconsin State Attorneys Association. Registered nurses and other health care professionals are represented by United Professionals for Quality Health Care, affiliated with the Service Employees International Union (SEIU). State of Wisconsin teachers and other education and information professionals are represented by the Wisconsin Education Association Council, an affiliate of the National Education Association (NEA). Altogether, the current state workforce includes over 35,000 represented employees in 19 bargaining units.

Union representation of state employees has played an important role in the history of the civil service. Civil service rules aim to insulate the hiring process from political abuses, to provide citizens with equal opportunity and access to state jobs, and to protect employees from politically-motivated job loss. Union representation, in turn, allows state employees to collectively negotiate with their employer for fair wages, hours, and working conditions. The net result is a working environment governed by the principles of merit, fairness, and due process, ensuring that essential services are delivered to Wisconsin’s citizens by effective and productive state employees.

—Dean Paynter,  
Susan Crawford

## A Long Serving State Employee Labor Leader on the History of AFSCME and WSEU

*In reviewing the history of the union, one must take a look at the political situation that existed at the time of its birth. Herbert Hoover was the President of the United States and Philip La Follette was Governor of Wisconsin; the latter was one of the so-called Progressive Republicans and a son of former U.S. Senator Robert La Follette, Sr. Most of the administration at the time were Progressives, including Colonel A.E. Garey who was the prime mover to form an employee association. With the United States in the midst of a severe depression, Garey, who was the Director of the State Bureau of Personnel, sensed that the coming election in November, 1932 would likely be won by the Democrats who were gaining strength across the nation.*

*This being the case, Garey was fearful that if the Democrats gained control of the government, there would be a concerted effort by a Democratic Governor to replace key administrators with members of his party, the results of which would undermine the civil service system. As a consequence, Garey set the wheels in motion to form an organization of state employees who might be affected by political changes of the Democrats.*

*True to Garey's prediction, Democrats swept into office as a result of the Roosevelt landslide, bringing into office Governor A.G. Schmedeman, who was prominent in the state Democratic party. In the meantime Garey et al. were successful in the effort to form an organization called the Wisconsin State Administrative Employees Association.*

*At the behest of Garey, Arnold S. Zander, who at the time was a personnel examiner, became the financial secretary of the organization, which by then had become moderately successful in its efforts to recruit members.*

*Following Governor Schmedeman's assuming office, he and certain of his cohorts in the legislature launched an investigation into the operations of public welfare institutions, which was politically inspired and was designed to bring about the replacement of high level administrators, including John H. Hammond, Director of what was then the Department of Public Welfare. Needless to say, this caused*

*much unrest among state employees statewide who feared loss of their jobs.*

*Zander and leaders of the organization hastily took advantage of the situation. The decision was made to broaden the jurisdiction of the organization to include all classifications of state employees.*

*While the investigation of the institutions did focus the attention of the public on the deplorable conditions existing in mental and correctional institutions, it also brought to light the problems that employees had in taking care of the wards of the state; salaries were in many cases only \$50 per month for a 72 hour week in mental hospitals, with no fringe benefits.*

*From the start, Garey and Zander had sought the cooperation of the Wisconsin State American Federation of Labor. The late Henry Ohl, who was President of the Federation at the time, accompanied them to a meeting with Governor La Follette in 1932, at which they informed him of their intentions in the organization of state employees. La Follette too was concerned about what might happen if the Democratic Party gained power in the Fall election. As a result of La Follette's agreement the organizational effort picked up steam.*

*It should be noted that while the state AFL acquiesced with the effort to organize state employees, there were those who did not like to be identified with labor movement. Also, the AFL national leadership at the time opposed industrial organization where all classifications of employees joined a single union, as opposed to craft organizations of carpenters, painters, etc. Subsequently, Walter Reuther of the United Automobile Workers and John L. Lewis of the United Mine Workers changed all of that with the formation of the Committee on Industrial Organization (CIO).*

*This gave rise to conflict between the hardliners in the AFL and the industrial union leadership in the efforts to organize the workers throughout the country. Some years later, agreement was finally reached between the unions; their*

*continued on next page*

merger into the AFL-CIO brought about substantial growth in the labor movement, including the Wisconsin State Employees Association Council 24.

While there was a modicum of job protection for state employees under civil service rules, there were abuses in the system such as discrimination against those who might challenge their boss and the so-called "rule of three" which made it possible for a department head to select an applicant who didn't score the highest in a competitive examination. Thus, charges of favoritism were commonplace. Zander, together with many Chapter officers and union members, continued to press forward in the effort to develop a program of union objectives to improve working conditions, such as higher salaries, reduction of the work week, mandatory vacations, a retirement system, etc.

In the 1933 legislative session, a bill was introduced that would have gutted the civil service. Through the efforts of the fledgling Association and the state AFL, the bill was defeated. As a result there was growing interest by state employees in what the organization was doing on their behalf. At the time there were approximately 1,000 members in the Association.

In the meantime, Zander and his followers began to turn their attention to the possibility of founding a national union for public employees, hoping to gain AFL approval for an international union. There was great potential for such an organization, due to the existence of independent groups in other states. The group in New York had 12,000 members and the city of Philadelphia had a sizable group. After much consultation with AFL leaders, it was agreed that AFSC&ME would be granted a charter as a branch of the American Federation of Government Employees (AFGE).

It wasn't long before Zander and leaders of many chapters and locals became unhappy with the paternalistic AFGE attitude. Subsequently, Zander increased his pressure on the AFL to issue a separate charter for an international union with the name of the American Federation of State, County and Municipal Employees (AFSC&ME). In May 1933 the statewide group of Chapters became Local #1.

In November 1933, then AFL President William Green, in a letter to Zander, urged him to call a convention for the purpose of determining if AFSC&ME members wanted a separate charter. Such a meeting was held at the Morrison Hotel in Chicago on September 17, 1936, where

the delegates gave strong support for a separate charter. A constitution was adopted and Zander was formally elected as President, with Roy Kubista the Secretary/Treasurer.

The newly adopted constitution, among other provisions, contained a section which set the procedure necessary for affiliation with AFSC&ME. As a consequence, the various public employee organizations subsequently changed their structures from chapters to local unions with autonomy in their respective public service jurisdictions, with the proviso that there be affiliation with State Federations of Labor. This affiliation was originally voluntary, but became compulsory as a result of action taken by delegates at a later AFSC&ME convention.

Another article in the constitution provided for the formation of councils within a public service jurisdiction, whereby locals could join in the common effort to secure benefits for union members and to sponsor legislation at all levels of state, county and municipal government on behalf of the members. The Wisconsin State Employees Union was one of the first to form a council, now known as Council 24. In due time, AFSC&ME Councils were formed at all levels throughout the country, among them Councils 40 and 48 here in Wisconsin.

Roy Kubista became director of Council 24, holding this position until his retirement. Robert Oberbeck became director of Council 40. John Zinos was selected in Milwaukee District Council 48. As time passed, AFSC&ME became the dominant union organization for state, county and municipal employees with a membership nationally of more than one million members.

In due time, with the advent of collective bargaining, the leadership of the union at all levels began to steer away from civil service as the principal means to secure financial gains and fringe benefits. The result of union organization since the National Labor Relations Act was enacted during the Roosevelt Administration in the 1930s has been financial security and dignity for millions of public employees.

Union organization has also redounded to the benefit of our country's citizens by providing a competent and well-paid workforce in all levels of the government. Its leaders and members past and present are deserving of great credit for their accomplishments over the years.

—Steve Clark







# CHAPTER VI

## WISCONSIN AFFIRMATIVE ACTION HISTORY

The civil service system came into being to eliminate the practice under the spoils system of parceling out state jobs based on political affiliation. Thus, a principle of non-discrimination—at least on the basis of political affiliation—underlies the civil service system. Moreover, the civil service system's emphases on objective hiring criteria and merit-based selection are intended to give citizens equal opportunities to compete for state jobs.

However, this basic framework did little to ensure equal access to state employment for members of racial and ethnic minority groups, women, and persons with disabilities. In the early years of the civil service system, administrators of the system did not consider the impact of state employment practices on racial and ethnic minorities, women, or persons with disabilities. Nor did they compile statistics on the demographic makeup of the workforce. Efforts to examine the status of minorities and women within the civil service system did not begin until the 1960s, when the civil rights movement and new civil rights legislation brought the issue of employment discrimination to the forefront. When equal employment opportunity and affirmative action policies were formally adopted in the 1970s, civil service officials began, for the first time, to systematically identify where racial and ethnic minorities and women were under-represented in state jobs and to consider whether employment practices created unreasonable barriers for them or persons with disabilities. Armed with this data, the state began to implement a variety of affirmative measures to ensure that civil service employment practices did not exclude or otherwise discriminate against these historically disadvantaged groups.

### A CLIMATE OF DISCRIMINATION

Affirmative action in employment was initiated in the early 1970s as a means to remedy the present effects of past discrimination, particularly discrimination against African Americans. Although today affirmative action and equal employment opportunity programs target a broader range of disadvantaged groups, these programs arose from the civil rights movement and the nation's painful legacy of racial segregation and discrimination.

Discrimination against racial and ethnic minorities and women was widespread and entrenched in American culture in the early 20th century. Southern Jim Crow laws, indentured servitude through land leases, sharecropping, voting discrimination, and lack of educational opportunities kept most African Americans impoverished. Even the federal government excluded blacks from equal participation in the armed forces, federal employment, federal housing, and federal contracting opportunities. Other racial and ethnic minorities also were excluded from equal participation in educational, political, social, and economic institutions nationwide. Women had not yet won even the right to vote.

At the time the civil service system was created and for much of the 20th century, racial and ethnic minorities and women confronted exclusion from, and discriminatory treatment in, workplaces in both the public and private sectors. African Americans and Hispanic Americans were segregated into low-wage jobs. Asian Americans were forbidden by law from owning land, and instead farmed lands to which they could not hold title. "Protective" laws prohibited women from being employed in many occupations, limited the number of

hours they could work and the amount of weight they could lift, and imposed other restrictions on their employment.<sup>1</sup>

In Wisconsin, the impact of racial discrimination was less visible in the early 20th century for two reasons. First, members of racial and ethnic minority groups made up a very small fraction of the state's population. In 1910, for example, there were just 3,000 African Americans living in the state. Secondly, Wisconsin had a history of public commitment to equal rights dating back to the days of slavery, when the state was the northern terminus to the underground railroad. Wisconsin was comparatively early in adopting antidiscrimination policies, granting voting rights to black men in 1866 and prohibiting discrimination in public places of accommodation in 1895.<sup>2</sup>

Due to widespread labor shortages, northern steel plants and manufacturers during the war years sought black workers to help produce the products and materials to fuel the war effort. This triggered a massive migration of blacks from the rural south to the booming northern industrial cities, where jobs were plentiful. Cities like Chicago, Detroit, Gary, and many others experienced exponential growth in African American populations.

The black migration was slow to reach Wisconsin, however. By 1940, just before the war, the census showed 12,158 African Americans living in the state. With a mainly agricultural economy and a manufacturing base requiring mainly highly-skilled workers, Wisconsin initially lacked the large numbers of jobs for laborers that were present in other areas. Because the black population of the state was so small, the state also lacked widespread community support for other migrating black families. In addition, though state anti-discrimination laws were liberal for the time, bias against blacks appeared in local housing covenants and discouraged black migration into Wisconsin.<sup>3</sup>

As recently as the 1940s, the doors of many Wisconsin employers were all but closed to black job applicants. One 1943 survey of employers in the state showed that department stores hired blacks only as porters and maids. Foundries and other heavy industries did not hire blacks at all. Of the surveyed employers, only a packing house, one railroad and two light industries regularly employed African Americans in any numbers.

The reasons employers gave in this survey by the employers for not employing blacks were that black people did not apply for these jobs and that white employees did not like to work with them.<sup>4</sup>

With the labor shortages that arose during World War II, the population of racial and ethnic minorities expanded rapidly in Wisconsin in the late 1940s, clustering in southeastern Wisconsin. The migration of African Americans spilled over from Chicago and northern Illinois into Kenosha, Racine, Beloit, and Milwaukee in southeastern Wisconsin.<sup>5</sup>

Despite the population boom, racial separation and discriminatory employment practices continued. Through the 1960s, African Americans and other minorities were segregated into low wage jobs. Entire industries and categories of employment were, in effect, reserved for white men, with women and minorities forbidden to apply. Newspaper job listings were segregated by gender. Women confronted lower pay and fewer benefits than men, even when performing similar jobs; the loss of their jobs if they married or became pregnant; and sexual harassment and other discrimination in the workplace.

### FEDERAL EFFORTS TO ELIMINATE EMPLOYMENT DISCRIMINATION

As early as the 1930s, federal employment and training programs enacted to combat the Great Depression contained nondiscrimination clauses. The Unemployment Relief Act of 1933, the Social Security Act of 1933, and the Wagner-Peyser Act of 1935 all paid credence to the concept of nondiscrimination on the basis of race, creed, color and national origin. But none of these laws provided any real enforcement power.<sup>6</sup>

Additional steps to eliminate barriers to employment for racial minorities came during World War II, when the nation was experiencing a severe labor shortage. President Franklin D. Roosevelt issued an executive order in 1941 that barred discrimination on the basis of race, creed, color, or national origin by federal defense contractors, and created the Fair Employment Practices Commission to oversee the practices of contractors. The order was the direct result of the lobbying efforts of A. Philip Randolph, president of the Brotherhood of

Sleeping Car Porters, who had threatened a march on Washington by 100,000 black men to protest discrimination in the defense industries. Although the order represented an important policy statement against racial discrimination, President Roosevelt's Fair Employment Practices Commission, like prior bodies, lacked adequate enforcement authority.<sup>7</sup>

The U.S. Supreme Court's watershed decision in *Brown vs. Board of Education* in 1954 marked a major turning point for civil rights, overturning the "separate but equal" fiction that had allowed Jim Crow segregation to persist across the nation.<sup>8</sup> Following the *Brown* decision, the civil rights movement gained momentum. Protests and public demonstrations by blacks and others against discrimination began to erode cultural acceptance of the discriminatory practices that excluded blacks and other minorities from the economic mainstream. In 1957, Dr. Martin Luther King, Jr. led a bus boycott in Montgomery, Alabama to protest racial segregation and discrimination in jobs, housing, and public accommodations. The early 1960s saw an increasing frequency of protests such as student sit-ins, "freedom rides," and demonstrations. In May 1963, police use of dogs and high-pressure fire hoses by police to suppress a demonstration on the 100th anniversary of the Emancipation Proclamation in Birmingham, Alabama gave rise to protests in several other cities. In August 1964, 200,000 blacks and whites marched together in Washington, D.C. to demand equal treatment for the races.<sup>9</sup>

President Kennedy sent Congress a civil rights bill in June, 1963, that dealt with the critically important issues of equal employment, education, public accommodations and voting. He did not live to see the law enacted. Subsequently, with President Lyndon Johnson's support, Congress passed the Civil Rights Act of 1964, the most comprehensive civil rights law since Reconstruction. Among other things, the Act required private-sector employers to provide equal employment opportunities and prohibited employment discrimination on the basis of race, color, religion, sex, or national origin. The Act created the Equal Employment Opportunity Commission to enforce its provisions.<sup>10</sup> However, the Act did not apply to federal, state, or local governments until it was amended in 1972.<sup>11</sup>



Civil rights group CORE picketing for fairness and equality in housing. 1964

The concept of affirmative action, as the term is used today, first appeared in 1965 and applied to federal contractors. President Lyndon Johnson issued an executive order that required government contractors to "take affirmative action to ensure that qualified applicants obtain employment, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin." In 1968, gender was added to the protected categories. The purpose of the order was to create a "level playing field" to redress discrimination that had persisted despite the passage of civil rights laws and the existence of constitutional protections.<sup>12</sup> In the words of President Johnson, affirmative action was needed to achieve "not just equality as a right and a theory, but equality as a fact and as a result."<sup>13</sup>

At the outset, affirmative action was viewed as a remedial strategy that would end when a level playing field had been achieved for all Americans. The policy represented the federal government's commitment not merely to denounce discrimination, but to pursue a course of action that would secure the same employment and educational opportunities for historically disadvantaged groups that had previously been available only to whites and men.

## WISCONSIN'S PROGRESS TOWARD EQUAL EMPLOYMENT OPPORTUNITY

At the state level, the Wisconsin Fair Employment Act (WFEA) was passed in 1945, prohibiting discrimination in employment on the bases of race, creed, color, national origin, or ancestry.<sup>14</sup> The law was the third such enactment in the nation, following the states of New York and Oregon. The WFEA also authorized the state Industrial Commission to receive and investigate complaints, hold hearings, and make recommendations for eliminating discriminatory practices.

The law was gradually expanded to cover other groups that were subject to employment discrimination. A prohibition against discrimination on the basis of age for those between the ages of 40 and 65 was added in 1959.<sup>15</sup> In 1961, Wisconsin became the first state to extend such protections to women, when the WFEA was amended to prohibit employment discrimination on the basis of gender.<sup>16</sup> In 1965, the law was amended to extend protections against employment discrimination to the disabled and again in 1982 to prohibit discrimination on the basis of sexual orientation.<sup>17</sup> The Equal Rights Division at the Department of Industry, Labor, and Human Relations was created in 1967 to enforce the Wisconsin Fair Employment Act against covered employers. The division was also authorized to enforce other state anti-discrimination laws.<sup>18</sup>

Notably, however, the WFEA did not apply to state government at the time of its enactment or for decades afterward. Not until 1975 was the act amended to include the State of Wisconsin and units of local government as covered employers.<sup>19</sup>

## IMPLEMENTING AFFIRMATIVE ACTION IN THE STATE CIVIL SERVICE

On May 17, 1972, Governor Patrick Lucey issued an executive order mandating affirmative action in the state civil service and creating an affirmative action unit in the Bureau of Personnel, which was then within the Department of Administration. The executive order also directed the head of every state agency to encourage racial and ethnic minorities and women to apply for employment and to designate an affirmative action officer responsible for developing an affirmative action plan.<sup>20</sup>

When the Department of Employment Relations (DER) was subsequently created by the legislature in 1977, the new secretary of DER was charged with overseeing the statewide affirmative action and equal opportunity programs.<sup>21</sup> In 1978, the division of affirmative action was established within DER to oversee equal employment opportunity and affirmative action in the Wisconsin civil service system.

In the same legislation that created DER, the legislature created two other entities that played an important role in implementing affirmative action and equal employment opportunity in the state civil service system. First, the legislature created an independent Personnel Commission that was empowered to review complaints of employment discrimination by state employees under WFEA.<sup>22</sup> In addition, the State Council on Affirmative Action was formed, codifying the Affirmative Action Executive Commission that Governor Lucey had created by executive order in 1975. The Council was established to:

serve in a direct advisory capacity to the [DER secretary] and as part of that relationship shall evaluate the progress of affirmative action programs throughout the civil service system, seek compliance with state and federal regulations and recommend improvements in the state's affirmative action efforts as an employer. In carrying out its responsibilities, the council may recommend legislation, consult with agency personnel and other interested persons, conduct hearings and take other appropriate action to promote affirmative action. The council shall report at least once per year to the governor and the legislature.<sup>23</sup>

As originally constituted, the Council was made up of members of the public nominated by the governor and the legislative leaders, with a majority of the members representing racial and ethnic minorities, women, and persons with disabilities.<sup>24</sup> Among its achievements over the years, the Council has led the way in celebrating high quality, successful affirmative action, equal employment opportunity, and diversity programs in state agencies and at UW System campuses. In 2000, the Council initiated an annual diversity award program to celebrate the many successful programs across state government and to provide inspiration for the continued pursuit of equal opportunity.



Affirmative action efforts received additional support in 1983, when Governor Anthony Earl issued an executive order encouraging the establishment of innovative programs in the Wisconsin civil service system.<sup>25</sup> The goal of such programs was to ensure that affirmative action and equal opportunity goals were attained, to integrate affirmative action concerns in the collective bargaining process, and to provide on-going training for state managers and supervisors. The executive order also provided for affirmative action advisory committees at state agencies and for equal opportunity requirements to be written in service delivery programs.

### STATE AFFIRMATIVE ACTION POLICIES

With a framework for affirmative action thus in place, DER (and subsequently OSER) implemented statewide policy and procedure standards to ensure equal and fair treatment in Wisconsin civil service practices. These areas include recruitment, testing, certification, interviewing, hiring, transfers, promotions, training, compensation, benefits, layoffs, terminations, and retention.<sup>26</sup> The Wisconsin civil service system today has a clearly-stated policy of affirmative action, as expressed in the standards set by OSER's division of affirmative action for agency affirmative action plans: "The fact that an agency has an affirmative action goal for a job group does not mean that any specific positions are set aside for racial/ethnic minorities or women, or that there are quotas that must be met. It does mean, however, that race and sex may be considered as one factor among the many factors involved in filling a position and making a hiring decision."<sup>27</sup> In addition, hiring decisions must be justified and based on the consideration of a candidate's education, training, experience, or skills.<sup>28</sup>

In 1980, expanded certification programs for women, racial and ethnic minorities, and persons with disabilities were developed and incorporated in the Wisconsin civil service system. This program replaced a prior system that allowed the administrator of merit recruitment and selection to prepare separate certification lists of minorities and women after this approach was determined to be unconstitutional by the courts.<sup>29</sup> The expanded certification program permits the administrator of the division of merit recruitment and selection to add the names of qualified candidates who are racial

and ethnic minorities, women, or persons with disabilities to the certification list for further hiring considerations. Although expanded certification does not carry a guarantee of being hired, it enhances the opportunities for targeted applicants who meet job qualifications to compete in the civil service selection process.

The division of affirmative action today oversees statewide efforts to implement affirmative action and equal employment opportunity. Under current law, the division of affirmative action must conduct a thorough and detailed analysis of job classifications that are under-represented for racial and ethnic minorities and women on a regular basis.<sup>30</sup> The identification of a substantial disparity between the state civil service and the relevant labor pool triggers the application of affirmative action in hiring.

The statutes governing the civil service system now require the state as an employer to take steps to ensure equal employment opportunity not only in hiring but in all aspects of the employer-employee relationship. Under current law, the appointing authority of each state agency is required to comply with the affirmative action and equal employment opportunity standards established by the Office of State Employment Relations. The appointing authority is required to designate an affirmative action officer to advise and assist the appointing authority in establishing affirmative action and equal employment opportunity programs at the agency. Agencies with fifty or more employees must create an affirmative action advisory committee to advise the appointing authority concerning programs designed to ensure equal opportunity to employees, job applicants and clients of the agency.<sup>31</sup> The division of affirmative action supports these efforts by reviewing affirmative action plans of state agencies, including the University of Wisconsin System campuses, to ensure compliance with affirmative action and equal employment opportunity standards. The division also monitors, evaluates, and makes recommendations to each agency to improve its progress toward providing equal opportunity to employees, job applicants and clients of the agency.<sup>32</sup>

As a matter of statistics, the state's affirmative action programs have been effective in improving access to racial and ethnic minorities in the state civil service

system. In 1979, racial and ethnic minorities constituted 4% of the state workforce and 0.3% of the professional and upper-management positions. In 2003, they constituted 8.6% of the state workforce and 3.2% of the professional and upper-management positions. However, despite this progress, many pockets of under-representation continue to exist throughout the state workforce, due in large part to the increasing diversity of the available labor force in Wisconsin. These disparities underscore the continuing need for affirmative action policies to remedy the persistent, albeit reduced, imbalance between the composition of the state government workforce and the pool of available workers.

### EFFORTS TO ENSURE EQUAL EMPLOYMENT OPPORTUNITIES FOR WOMEN

Following on the heels of legislation and other official action undertaken in response to the civil rights movement to remedy racial discrimination, a movement to extend equal rights to women gained legislative support at both the national and state levels. The Civil Rights Act of 1964 included sex among the prohibited bases for discrimination from the time it was first enacted. The federal Pregnancy Discrimination Act, enacted in 1978, expanded the protections for women by prohibiting discrimination on the basis of pregnancy, childbirth, or related medical conditions.<sup>33</sup>

Wisconsin was at the vanguard of legislative efforts to ensure equal employment opportunity for women, having extended the protections of the Wisconsin Fair Employment Act to women in 1961. Likewise, the Bureau of Personnel took early steps to eliminate barriers to equal employment opportunity for women within state government, conducting a survey on the status of women in state employment in 1964. In 1971, personnel director Carl Wettengel announced that the State of Wisconsin would no longer advertise state jobs in sex-segregated classified advertising columns ("man wanted" and "women wanted" advertisements) in state newspapers. Also in 1971, the Bureau adopted a policy that pregnancy would be treated the same as any other medical-related work interruption under state sick leave and disability policies.

The concept of pay equity was launched at the national level in 1961, when Congress enacted the Equal Pay Act to prohibit discrimination in wages based on sex.



*Members of the Political Equality League in an early Ford automobile.*

However, the federal law applied only to the private sector and, accordingly, did not apply to Wisconsin state government as an employer. The issue of equal pay for similar work was addressed for Wisconsin civil service employees by a state task force on comparable worth, convened in 1984. The task force's 1986 report resulted in legislation that allowed for a one-time budget increase for pay equity adjustments. Many state positions that were traditionally staffed by women (or in some cases minorities) were reclassified or adjusted to pay levels comparable to similar positions staffed by men. In addition, the state civil service classification system was reconfigured with a pay structure that was based on the required responsibilities of job classifications rather than gender.<sup>34</sup>

Besides addressing pay inequity, employment policies were developed in Wisconsin civil service to address other issues that had historically disadvantaged women in the work place. State policies prohibit all forms of harassment, including sexual harassment.<sup>35</sup> State agencies are also required to participate in alternative work patterns, accommodating flex-time or part-time schedules when possible. In addition, the Wisconsin Family and Medical Leave Act, enacted in 1988, ensures that employees may take necessary leaves of absence from the workplace without fear of job loss.

In 1979, women represented 43% of the Wisconsin civil service workforce. About 80% of these women earned less than \$1200, compared to 37% of the men.<sup>36</sup> By comparison, in 2003, 51.5% of the Wisconsin civil service employees were women. Although women held 50.1% of professional positions in 2003, they still lagged behind men in senior management jobs, holding only about 35% of high-level management jobs in the civil service.



The average salary for women employees remains lower than the average for all state employees.<sup>37</sup> This wage gap is largely attributable to the continued predominance of women in lower-paying jobs, particularly clerical and paraprofessional jobs, and their continued under-representation in management jobs and other higher-paying professional occupations. These patterns justify the continuation of state affirmative action policies directed at women, with particular emphasis on retention and upward mobility.

### EFFORTS TO ENSURE EQUAL EMPLOYMENT OPPORTUNITIES FOR PERSONS WITH DISABILITIES

Several landmark pieces of legislation have been passed in the last four decades at both the national and state levels to provide disabled individuals with equal employment opportunities. These acts not only prohibited discrimination, but promoted affirmative action in the hiring of disabled individuals and required the removal of physical barriers in and out of the workplace.

### *Recollections of a State Employee*

*I formally retired from the Department of Public Instruction as of January 28, 2005, after working for the Department for 47 years. DPI was a wonderful agency to work for. All of the elected state superintendents were great in their own ways. I worked for seven elected superintendents and one (Lee Dreyfus) who was appointed for three months to fill out Bert Grover's term when he joined Governor Tommy Thompson's administration.*

*On the Friday before Labor Day in 1957 (the day after I graduated from Madison Business College with a medical secretarial certificate) I "rolled" into the State Capitol (I've been in a wheelchair since 1952, due to having polio when I was a freshman in high school) to the north wing, where the Department of Employment Relations was located. At the receptionist desk was Olive Calhoun, who said that they could give me a steno 2 test right away. I was given the written test and then took a typing test on a manual typewriter. Having passed both, staff members said that DPI had a vacancy and was right in the same north wing area. So I rolled over to the DPI*

*receptionist, who then called the office manager, Ms Hammersley. Ms. Hammersley came out and asked me to interview immediately with her and the deputy state superintendent, Russ Lewis, for a position as secretary to one of the division administrators, Walter Senty. The following Tuesday, I received a call to my home offering me the job. This was all prior to affirmative action and I was a young 18 year old in a wheelchair.*

*On September 9, 1957, I began my formal career with the Department of Public Instruction. Over the years I've held many titles - steno 2, steno 3, administrative secretary 1, administrative secretary 2, program assistant supervisor 1, program assistant supervisor 2, and now education specialist. I am still basically in the same division. It has been an absolutely wonderful agency to work for. My family has never heard me say I didn't want to go to work, and I have a husband, two daughters, four grandsons, and a great granddaughter!*

—Mary Parks

The 1973 Rehabilitation Act, the result of an intense lobbying campaign by disability organizations and consumer groups, was the first breakthrough. The Act barred employment discrimination against the disabled by the federal government and organizations receiving federal assistance; required the removal of architectural and transportation barriers; and required the government to take affirmative action to employ and promote qualified disabled persons. In addition, the Act established client assistance programs to inform clients and applicants about benefits to which they were entitled.<sup>38</sup>

The Americans with Disabilities Act (ADA) was enacted in 1990 to integrate persons with disabilities into the mainstream of society. It strengthened the protection of qualified disabled individuals in seeking employment, availing themselves of public accommodations and transportation, and in accessing public services.<sup>39</sup> Amendments in 1991 to the Civil Rights Act of 1964 provided for the recovery of compensatory and punitive damages for intentional violations of the ADA, the Rehabilitation Act of 1973, and Title VII.<sup>40</sup>

As in other areas, Wisconsin has been at the forefront in addressing the employment issues of persons with disabilities. The WFEA extended protections against employment discrimination to the disabled in 1965, well in advance of federal legislation. As noted above, however, the WFEA did not apply to the state government and local government units until 1975. In the civil service system, persons with disabilities are considered an affirmative action target group as a matter of state law. The expanded certification program, implemented in 1980, allows three additional qualified disabled candidates to be added to a certification list for further consideration in the civil service selection process.<sup>41</sup>

The division of affirmative action at the Office of State Employment Relations promulgates policies and procedures to guide state agencies in providing reasonable accommodation at all phases of the employment

process for disabled applicants and employees of the state civil service. Providing accommodations such as job restructuring or changing of test locations enables persons with disabilities to enjoy equal employment opportunities.

The state's efforts in providing equal employment opportunities to the disabled have paid off, as seen by the increasing diversity of the state workforce. Disabled employees constituted 2.8% of the state civil service in 1979. The percentage had increased to 6.8% in 2004, comparable to the estimated 6.6% of disabled workers in the state labor force.<sup>42</sup>

### THE FUTURE OF AFFIRMATIVE ACTION IN THE STATE CIVIL SERVICE

The Wisconsin civil service has made great progress in ensuring equal opportunities to all state job applicants and current employees, including those in protected classes. But like many other aspects of the civil service system, the state's affirmative action policies do not represent a static set of rules that can be deemed either final or obsolete. The demographics of Wisconsin's population and labor force are constantly in flux due to new waves of immigration, changes in birth rates, the aging of the post-war baby boom generation, and many other factors. In the past 15 years, for example, the state's Hispanic population has more than doubled, from under 100,000 in 1994 to nearly 200,000 in 2004. Likewise the state's Hmong population more than doubled between 1990 and 2000. New strategies and a renewed commitment to affirmative action will allow us to continue progress toward a state civil service that provides an even playing field for all citizens in our increasingly diverse state, while upholding the principle of merit hiring.

—Demetri Fisher, Lai Wong,  
Pepe Indalecio, Janice Faust

## TIMELINE OF WISCONSIN AFFIRMATIVE ACTION

**1945**

The Wisconsin Fair Employment Act was enacted, prohibiting discrimination in employment based on race, color, creed, ancestry and national origin.

**1954**

The U.S. Supreme Court issued its historic decision in *Brown vs. Board of Education*, holding that racial segregation was unconstitutional.

**1959**

The Wisconsin Fair Employment Act was amended to add age as a category protected from employment discrimination.

**1964**

The Civil Rights Act of 1964 was passed by Congress and signed into law by President Lyndon B. Johnson.

**1965**

President Johnson issued Executive Order 11246, which required government contractors to “take affirmative action” to remedy employment discrimination.

**1967**

US Congress passed the Age Discrimination in Employment Act, which prohibited age discrimination of workers between the ages of 40 and 65 years old.

**1971**

State Bureau of Personnel Director Carl Wettengel announced that the State of Wisconsin would not advertise jobs under sex-segregated classified advertisement columns. Civil service rules were amended to require employment absences due to pregnancy to be treated like other medical leave.

**1972**

Governor Patrick Lucey issued executive order 39, requiring affirmative action in the state civil service.

**1973**

The federal Rehabilitation Act was enacted.

**July 1975**

The Wisconsin Fair Employment Act was amended, making the State of Wisconsin and units of local government covered employers subject to its provisions.

**1977**

Legislation was passed creating the Department of Employment Relations, the State Council on Affirmative Action, and the Personnel Commission.

**1978**

The Division of Affirmative Action was established at the Department of Employment Relations.

**1978**

The federal Pregnancy Discrimination Act was enacted.

**1980**

Expanded certification for women, racial and ethnic minorities, and people with disabilities was incorporated into the hiring process for Wisconsin civil service employees.

**1982**

The Wisconsin Fair Employment Act was amended to add sexual orientation as a category protected from employment discrimination.

**1984**

Governor Anthony Earl appointed a task force to make recommendations regarding a pay equity system in the state civil service.

**1986**

Pay adjustments are made for women in state civil service jobs as a result of the pay equity task force’s recommendations.

**1988**

The Wisconsin Family and Medical Leave Act was enacted.

**1990**

The federal Americans with Disabilities Act was enacted.





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