

Major Changes in Civil Service Sought by OSEA

(Editor's Note: The following statement was made by OSEA staff members Dec. 14 to a Legislative Fiscal Subcommittee which is conducting a study of Oregon's civil service system. It was the association's second appearance before the subcommittee. OSEA's first statement, which is summarized in the opening paragraphs below, was made last Aug. 18 and appeared in the August issue of the NEWS. Its second statement, which contained more specific recommendations, is summarized below.)

"It is submitted that the testimony you have heard so far has substantiated the statements which OSEA made in its first appearance on Aug. 18:

(1) That the present system of administration by a part-time commission is outmoded and lacking in effectiveness;

(2) That, unfortunately, most people other than employees have come to think of the role of civil service as primarily a 'management tool' and the department as a 'service bureau' for the agencies;

(3) That there is little emphasis today on civil service as a protector of the rights and interests of employees;

(4) That, regardless of rules and stated objectives, the administrator usually can do what he wants to do by circumvention, pressure, salesmanship or other means; the attitude of employees that 'the civil service department does not make an aggressive effort to see that its rules are followed' is justified.

Ping-Pong Ball

OSEA suggested in its first statement that, outside of pay, the system of administration be given your most serious consideration.

OSEA is pleased that you did inquire so much into this, and that the testimony in general indicated that this is an area for change.

Answering specifically the type of questions you have asked others, OSEA favors the part-time commission being taken out of administration of civil service.

The substantial contribution which these individuals make can best be taken advantage of in policy matters, communication, rule-making or quasi-judicial functions.

Administrative authority and responsibility (OSEA believes that as much accent should be placed on responsibility as on authority) should be given to the director.

Matters then might be decided more promptly and clearly, instead of being batted like a ping-pong ball back and forth between the commission and the department. Important also, it might better be known who had made the decision and on what grounds.

Fear Not Justified

OSEA favors the appointment and supervision of the director by the governor instead of the commission. This raises the fear of 'putting civil service into politics,' but we do not think the fear is justified.

If there is faulty adminis-



CHANGES WANTED OSEA staff members Thomas C. Enright and Everett B. Stiles (foreground) recommended major changes in Oregon's civil service system Dec. 14 to a Legislative Fiscal Subcommittee studying civil service. Testimony was heard by (left to right) Sen. C. R. Hoyt (R-Corvallis), Rep. Morris Crothers (R-Salem), chairman, William Barrows, legislative analyst for the subcommittee and Rep. Jason Boe (D-Reedsport).

tration, complaints and suggestions are more apt to be given adequate consideration by the governor than by a part-time commission.

Ultimately, the governor controls the commission, anyway, and former chief executives have not hesitated to direct civil service action on occasion.

As a quasi-judicial body, the commission could be more objective in its reviews of the directors' actions if he were not their employee.

Another reason is the recognition in the National Civil Service League's 'Essentials of a Modern Civil Service System,' a copy of which OSEA previously furnished you, that an effective system must have the 'understanding and backing of the chief executive'. A closer relationship between the governor and civil service would probably increase such 'understanding and backing.'

Procedures Now Cumbersome

OSEA has been incorrectly accused of wanting to 'unclassify' the director. He could be appointed by the governor and still be in the classified service by legislative exemption from the provisions of ORS 240.200, or amendment of that section.

In discussing the possibility that the main functions of the commission might be rule-making and quasi-judicial, OSEA urges consideration by the subcommittee of removal of the exemption of civil service from the Administrative Procedures Act.

There will probably be proposed legislation to this effect in the next legislative session by the OSEA or the Oregon State AFL-CIO, which adopted a resolution favoring repeal of the exemption at its recent state convention.

It is unclear why civil service ever was exempted from the Act. Possibly it was felt that personnel administration was an executive function which should not be unduly interfered with by the courts.

If the commission is removed from administration and is to serve as a quasi-judicial body, it would appear that any such reason for exemption of its hearings from the provisions of the Act would be removed.

It is OSEA's position, of course, that protection of employee rights is a proper function of the courts.

The procedures which now must be used are cumbersome, time-consuming and expensive for all parties. The Act furnishes simpler solutions for those who come under it.

Decisions Now Delayed

The most important effect of the Act is that it provides a simple vehicle for determining the validity of rules.

Now the agency or employee who questions a rule cannot get a decision without waiting until there has been damage and a complicated suit has been tried.

It should be to the interests of both the state and the employees to have questionable rules clarified as soon as possible.

The Act would also require more definite hearing procedures.

This is of added significance now that a recent court decision requires that representation of agencies or employees before state quasi-judicial bodies, such as civil service, be by attorneys, on the holding that such representation constitutes the practice of law.

Idea Stoutly Resisted

Regarding salary surveys and administration, first OSEA would repeat its recommendation that salary data be 'projected' to the time of implementation, to cope with the time lag.

Secondly, OSEA commends the statement of the State Fiscal Officers and Administrators Association that non-salary benefits be made part of the survey and pay plan.

Oregon is one of only two western states who do not pay all or part of the employees' hospital - medical insurance

premiums, and much of private industry and the majority of cities, counties and school districts in Oregon make such a contribution.

The Civil Service Department has stoutly resisted the idea of differential pay for irregular work shifts for other than a few favored employees. This is a usual type of compensation in private industry.

On-the-Job Training

In the area of staff development and training, more is needed than a few courses for supervisorial and middle-management employees.

Training activities by the various agencies could be better coordinated. A number of agencies now have on-the-job training programs under the federal Manpower Development and Training Act.

It would appear that civil service could have served as a contractor with the U. S. Department of Labor under this program and coordinated these programs, plus providing other O-J-T programs with federal financial assistance.

Collective Bargaining

As to collective bargaining in state employment, civil service has done a very satisfactory job of performing the functions given to it by law, which is supervision of representation elections and certification of representatives.

Collective bargaining is progressing very well in state government, but further legislation is needed, especially to provide means for resolving impasses in negotiations and to enforce the requirement of good faith bargaining.

OSEA recommends that a

special office be created to supervise collective bargaining for all public employees in Oregon, the cities, counties and school districts as well as the state.

If, however, it is impossible to achieve this at this time, it is preferable that supervision be by civil service than by the private industry oriented Bureau of Labor.

Pull and Favoritism

Administrators have complained to the subcommittee that they feel hamstrung by civil service.

OSEA points out that in a way this was what enactment of a civil service law was intended to do, at least to the extent of keeping the administrator from making his appointments on the basis of 'pull' and favoritism, requiring him to make them 'on the basis of merit and fitness.'

The fact that administrators are able to do just about what they want, if they work hard enough and are skillful enough, is the main cause of employee dissatisfaction with the workings of civil service.

Merit Ratings

One subject about which the subcommittee has asked comment, performance evaluations, is high on the list of examples of civil service not enforcing the rules which it promulgates.

Without commenting on whether or not employee performance can be measured and tabulated on merit ratings form, civil service has set down requirements in this respect and they should be followed or withdrawn.

Yet major agencies do not all use the merit rating forms and report them as required, and one of the largest departments misuses them, in OSEA's opinion, by requiring ratings to be fitted into a 'bell-shaped curve', a practice which includes central office changes of the supervisor's evaluation to exact conformity.

One deficiency of the performance evaluation system is the absence of an appeal from an evaluation which the employee feels is improper.

A wrongful evaluation, because it involves such a thing as the granting or refusal of a pay increase and has a long-run effect on the employee's career, in many cases may be more important than, for instance, a suspension, regarding which an appeal is provided.

Closed Back Door

OSEA is strongly opposed to proposals to reopen the 'closed back door.'

Even under the present law's provision that if the commission finds that 'the dismissal was not made in good faith for cause, it shall order the immediate reinstatement and reemployment of the employee . . .', many employees are sent out the door by improperly inspired 'voluntary resignations' and transfers applied for under duress or on poor advice.

There has been no persuasive showing that administrators cannot continue to live with the 'closed back door' policy. If civil service is to be more than a 'management tool', this provision should be retained.

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