Wisconsin's civil service overhaul draws from other states

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Gov. Scott Walker in Beaver Dam on Oct. 2 defended his call to overhaul the civil service system for state workers, heralding the job protections four years ago.

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If the Republican-controlled Legislature moves forward overhauling the state’s civil service system, Wisconsin would join a series of states that in recent years have changed the way they hire, fire, demote and promote state employees.

The move would join Gov. Scott Walker’s 2011 collective-bargaining measure known as Act 10 and the 2015 passage of a Right-to-Work law as the latest labor-related change in a state where unions once wielded powerful influence and which gave birth to the Progressive Era-style of civil service systems.

Tennessee, Arizona, Kansas, Colorado, Florida, Georgia and Indiana all have revamped their civil service systems in the last 20 years. A proposal put forward by Sen. Roger Roth, R-Appleton, and Assembly Majority Leader Jim Steineke, R-Kaukauna, follows elements of those states’ models in eliminating hiring exams, extending new hires’ probationary time, eliminating bumping rights for more senior employees, giving raises based on performance and determining layoffs by job performance instead of seniority.

But it also deviates in a significant way by keeping the hiring process centralized within the Department of Administration.

A newly created agency within DOA will collect resumes, post jobs and create interview panels, Roth said at a hearing on the Senate’s bill. He said individual agencies will have the final say in hiring decisions.

Hannah Huffman, an aide to Steineke, said in an email each agency “still controls its employees (discipline, hiring, firing, etc).”
She said centralized rules from DOA “will govern agencies and employees’ behaviors for consistency and fairness across state government.”

“In states like Georgia, Tennessee, Texas and Florida, there’s a very strong emphasis on decentralization of the hiring process and in Wisconsin, it seems to be the opposite,” said Donald Moynihan, a professor in the Robert M. La Follette School of Public Affairs at UW-Madison.

Ellen Rubin, a public personnel management professor at the State University of New York-Albany who studies civil service systems, said generally, civil service changes include decentralization of authority to agencies, at-will hiring and a focus on job performance in pay decisions.

“Most states and the federal government has decentralized hiring to the agencies who want to hire the particular individual,” said Rubin. “Compared to everybody else, it would be going backwards.”

Roth said the ultimate hiring decision would rest with individual agencies looking to fill a position. But critics of the bill have said not delegating hiring to agencies and instead keeping it in an agency headed by a political appointee could introduce patronage.

Rubin said the “proof would be in the pudding,” pointing to New York, which centralizes hiring within such an agency but has a process insulated from the governor’s office.

Moynihan, who studies state government employment issues and has been critical of the process to change the state’s system, said the strong emphasis on both resumes and centralization in hiring seems unusual.
Moynihan said some critics of decentralizing the hiring process and farming it out to individual agencies also say it’s then when patronage has the potential to flourish.

“What’s problematic is you’re decentralizing (the process) to agencies, it becomes much harder to monitor what’s going on,” said Moynihan. “So if there is any sort of political influence in hiring, it’s just happening below the radar.”

On the other hand, he said, “if you’re going to hire people — and in particular, if you’re going to take a resume-based approach, presumably you want people to know what to look for in the resume.”

Rubin said relying solely on resumes to screen applicants “is not a good idea.”

“At a minimum there will be a lot of problems with discrimination and the courts would not find that assessment process to be adequate,” she said. “Resumes as one part of an assessment process are perfectly fine, however.”

Hannah Huffman, an aide to Steineke, said inspiration was drawn from Tennessee’s law passed in 2012, which has several features Wisconsin’s proposal does including giving hiring preferences to veterans, considering job performance in the event of layoffs and ending “bumping” rights for more senior employees.

According to a 2013 report from Pew Charitable Trust, Tennessee’s governor negotiated the changes with state workers. Under Act 10, such negotiations wouldn’t be allowed in Wisconsin.

Moynihan said Tennessee’s law does not explicitly identify
what serves as just cause for an immediate termination, nor does it specify resumes as the sole measure of a person’s skills in the first step of the hiring process.

Rubin said the majority of civil service changes are pushed by Republican governors or lawmakers. She said it’s “not surprising” that these changes would come after two major blows to union power in the state.

“The fact that it’s happening when the unions have been made minimized — where their power has been so minimized — is not surprising,” she said, adding that Wisconsin unions played a central role in “setting boundaries for public personnel management” prior to 2011.

“It makes sense when you get rid of those rules that had been union contracts, you need to update public personnel rules,” she said.

**Push to overhaul civil service systems**

In 1996, Georgia made significant changes to its system, marking “the beginning of a period of ‘radical’ decentralization of state personnel systems across the Sun Belt, which then spread to other parts of the United States,” according to a 2013 academic paper published by Robert J. McGrath, a government and politics professor at George Mason University.

That year, Georgia lawmakers turned all new state hires into at-will employees, took away seniority rights and started giving raises based on performance only — a centerpiece of the overhaul.

Overall, Rubin said a key conclusion from other states’ experiences is focusing on performance results in failure.
“A lot of promises of the reform do not play out,” she said. “They don’t work.”

She said supervisors have a difficult time measuring performance and “following through” is difficult.

“Think about your own work — you don’t want to give bad feedback to a colleague and ruin that working relationship,” she said.

A system of giving bonuses or raises based on performance also fails typically because the funding for such compensation relies on lawmakers to provide enough funding in state budgets, she said.

“They promise, ‘Oh, employees are going to be more motivated because we’re going to offer all this money ... but then they don’t have the money,”’ she said. “So there is no financial carrot to be motivating, so all that’s left is a performance appraisal process that is not very constructive.”

While Roth and Steineke’s proposal does not turn all employees at-will like Georgia did, it does outline specific offenses that employees may be terminated for immediately.

The performance of state employees also would be reviewed annually and layoffs and bonuses would be based on that assessment.

Molly Beck covers politics and state government for the Wisconsin State Journal.

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