Department of Personnel

June 1999

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June 18, 1999

The Honorable John S. Wilder
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The Honorable Kenneth N. (Pete) Springer, Chair
Senate Committee on Government Operations
The Honorable Mike Kernell, Chair
House Committee on Government Operations
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the performance audit of the Department of Personnel. This audit was conducted pursuant to the requirements of Section 4-29-111, *Tennessee Code Anno-tated*, the Tennessee Governmental Review Law.

This report is intended to aid the Joint Government Operations Committee in its review to determine whether the department should be continued, restructured, or terminated.

Sincerely,

John G. Morgan
Comptroller of the Treasury

JGM/dlj/ms
98-046

State of Tennessee

Audit Highlights

Comptroller of the Treasury | Division of State Audit

Performance Audit
Department of Personnel
June 1999

AUDIT OBJECTIVES

The objectives of the audit were to review the department's legislative mandate and the extent to which the department has met its mandate; to evaluate the efficiency and effectiveness of the department's activities and programs and the effect of these operations on other state agencies; to review the timeliness of the Civil Service Commission's grievance handling; and to make recommendations that might result in more efficient and effective operation of the department and the commission.

ANALYSES

Hiring Agencies Expressed Concerns About the Register System
Staff from the ten state agencies that use the department's register system most often identified the following major areas of concern: the need for more flexibility in hiring and promoting; the need for improvement in the system for certifying job applicants (specific weaknesses cited included rigid rating standards, no personal interviews, and no verification of applicant information); clogged registers; and management oversight of the rating process (page 5).

Some Southeastern States Have Decentralized Their Selection Systems
Several southeastern states and the federal government have moved toward a more decentralized selection (i.e., hiring and promotion) system in an attempt to provide hiring agencies more flexibility and to make hiring and promoting more efficient and effective. In addition, the legislative and judicial branches in Tennessee already use decentralized selection methods. The audit discusses several decentralized systems, the controls built into those systems, the advantages and disadvantages of decentralized systems, related legal issues, and strategies for implementing decentralization (page 14).

Job Applicants Are Generally Satisfied
Our survey of 200 successful and 200 unsuccessful applicants indicated that both groups of applicants were satisfied overall with the Department of Personnel's services—the information and assistance provided, the timeliness of application processing, and the rating process. Some applicants did, however, raise concerns about the availability of certain types of information, the adequacy of the rating process, low pay, and delays in hiring (page 21).

Agencies' Annual Affirmative Action Plans Are Not Submitted Timely
Our review of submission dates indicated that no executive branch agency, including the Department of Personnel, met the deadline set by the department for submission of fiscal year 1998 affirmative action plans. Although the department is required to report instances of noncompliance in its annual report to the Governor, as of July 1998, the department had not submitted an annual report for either fiscal year 1997 or 1998. The department does prepare quarterly analyses of the numbers and percentages of minority and female employees in state agencies' work force (page 22).

The Process for Cases Appealed to the Civil Service Commission Is Lengthy
Grievances appealed to the commission are first heard by administrative law judges; an employee who is not satisfied with that decision can then appeal directly to the commission. We reviewed 27 cases filed with the commission during calendar years 1996 and 1997—15 of these cases were closed; 12 were open. Twelve of the closed cases had been heard only by an administrative law judge; the average processing time for these cases was 306 days. The administrative law judges' decisions had been appealed to the commission in three of the closed cases—the average processing time for these cases was 449 days. The 12 open cases we reviewed had not yet been heard by the administrative law judges and had been open for an average of 441 days, as of August 17, 1998 (page 25).

The Department Has Provided Insufficient Guidance Regarding the Use of Administrative Leave With Pay, Particularly for Disciplinary Cases
Beyond very brief, general descriptions, the department has developed no written policies or procedures to guide state departments and agencies in determining when it is appropriate to place employees on administrative leave, how long employees may remain on administrative leave with pay, and what documentation should be maintained to support their decisions. Of particular concern are cases involving employees who are placed on administrative leave with pay pending disciplinary actions (page 26).

ISSUES FOR LEGISLATIVE CONSIDERATION

The General Assembly may wish to consider establishing in statute a deadline for the submission of annual affirmative action plans. In addition, the General Assembly may wish to consider evaluating the Department of Personnel's enforcement powers and expanding those powers, if deemed necessary (page 29).

The General Assembly may wish to consider amending Section 8-30-328, *Tennessee Code Annotated*, to require that a written order be issued within a certain amount of time after the hearing (e.g., 90 days) for cases appealed to the Civil Service Commission (page 29).

"Audit Highlights" is a summary of the audit report. To obtain the complete audit report which contains all findings, recommendations, and management comments, please contact

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Performance Audit
Department of Personnel

TABLE OF CONTENTS

	Page
INTRODUCTION	1
Purpose and Authority for the Audit	1
Objectives of the Audit	1
Scope and Methodology of the Audit	2
Organization and Responsibilities	2
Civil Service Commission	5
ANALYSES AND RECOMMENDATIONS	5
1. Hiring Agencies Expressed Concerns About the Register System	5
• Need for More Flexibility in Hiring and Promoting	6
• Need for Improvement in the System for Certifying Job Applicants	6
• Clogged Registers	8
• Management Oversight of the Rating Process	9
• Other Less Pervasive Concerns	9
2. Some Southeastern States Have Decentralized Their Selection Systems	14
• Decentralized Systems in Four Southeastern States	14
• Decentralization in the Federal Government	17
• Decentralized Systems in Tennessee	17
• Controls Built into Decentralized Systems	18
• Advantages/Disadvantages of Decentralized Systems	19
• Legal Issues Under a Decentralized System	19
• Strategies for Implementing Decentralization	20
3. Job Applicants Are Generally Satisfied	21

TABLE OF CONTENTS (CONT.)

	Page
4. Agencies' Annual Affirmative Action Plans Are Not Submitted Timely	22
5. The Process for Cases Appealed to the Civil Service Commission Is Lengthy	25
6. The Department Has Provided Insufficient Guidance Regarding the Use of Administrative Leave With Pay, Particularly for Disciplinary Cases	26
RECOMMENDATIONS	29
Legislative	29
Administrative	29

Performance Audit
Department of Personnel

INTRODUCTION

PURPOSE AND AUTHORITY FOR THE AUDIT

This performance audit of the Department of Personnel was conducted pursuant to the Tennessee Governmental Entity Review Law, *Tennessee Code Annotated*, Title 4, Chapter 29. Under Section 4-29-220, the department is scheduled to terminate June 30, 1999. As provided for in Section 4-29-115, however, the department will continue through June 30, 2000, for review by the designated legislative committee. The Comptroller of the Treasury is authorized under Section 4-29-111 to conduct a limited program review audit of the department, and to report to the Joint Government Operations Committee of the General Assembly. The performance audit is intended to aid the committee in determining whether the department should be continued, restructured, or terminated.

OBJECTIVES OF THE AUDIT

The objectives of the audit were

1. to determine the authority and responsibility mandated to the department by the General Assembly;

2. to determine the extent to which the department has met its legislative mandate;

3. to evaluate the efficiency and effectiveness of the department's activities and programs;

4. to evaluate the effect of the department's operations on other departments,

5. to review the timeliness of the Civil Service Commission's grievance handling; and

6. to recommend possible alternatives for legislative or administrative action that may result in more efficient and effective operation of the department and the commission.

SCOPE AND METHODOLOGY OF THE AUDIT

Certain activities and procedures of the Department of Personnel were reviewed, with the focus on the period July 1996 to July 1998. The audit was conducted in accordance with generally accepted government auditing standards and included

1. review of applicable legislation, rules and regulations, and department policies and procedures;

2. examination of the department's files, reports, and Internet homepage;

3. a review of performance and financial and compliance audit reports on the department and from other states and the federal government;

4. interviews with department staff, the staff of other departments, personnel of similar departments in other states, and the U.S. General Accounting Office; and

5. a survey of a sample of successful and unsuccessful applicants for state employment.

ORGANIZATION AND RESPONSIBILITIES

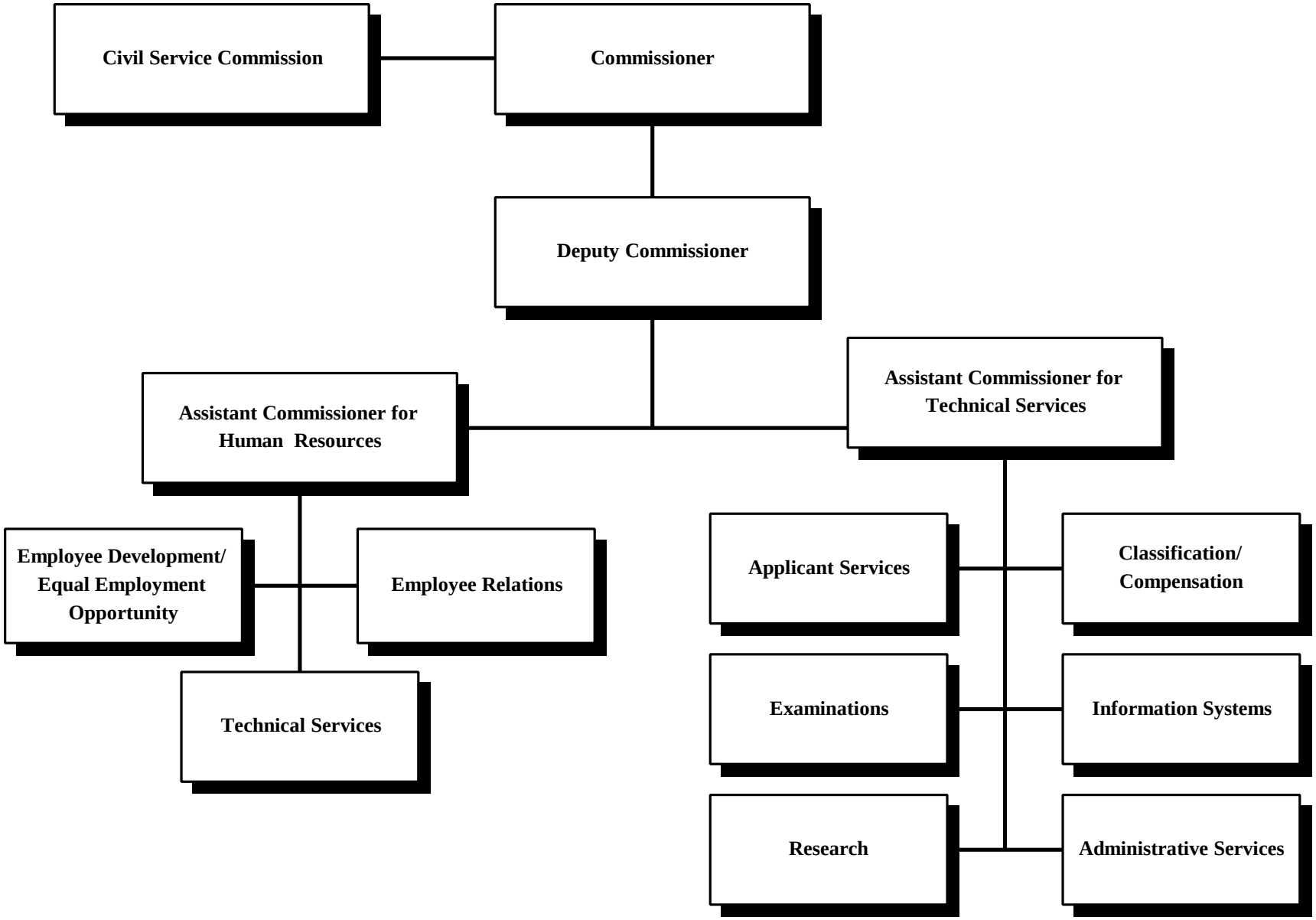
The General Assembly established the Department of Personnel in 1939 as a separate state agency. The department is responsible for developing and implementing policies and procedures to effectively manage the personnel needs of state government. Specifically, the department administers the Civil Service Act, advises the Governor on personnel issues, and implements the Governor's Affirmative Action Plan. In addition, the department maintains the records of state employees and applicants for state employment and coordinates training and career development.

As of July 29, 1998, there were 40,990 employees in state government, excluding those involved in public education. Ninety percent (36,908) worked in the executive branch and 96 percent of these employees (35,344) were in the Civil Service System.

As of July 29, 1998, the Department of Personnel had 117 full-time staff. The department's revenues and expenditures in fiscal year 1998 totaled $6,410,200. Sources of revenues included $3,258,000 in state appropriations and $3,152,200 in other sources (mostly interdepartmental revenues from services provided to other state departments).

The department is organized into nine divisions (see organization chart): Administrative Services, Applicant Services, Classification/Compensation, Employee Development and Equal Employment Opportunity, Employee Relations, Examinations, Information Systems, Research, and Technical Services. The department also provides administrative support to the Civil Service Commission.

Department of Personnel



The Administrative Services Division provides the following support services: purchasing, budget preparation and implementation, payroll, and facilities management. The division also coordinates the approval process for employee out-of-state travel and personal service contracts.

The Applicant Services Division administers civil service employment examinations and provides information to applicants regarding employment and promotion opportunities. The examinations for most jobs consist of a rating of education and experience. However, 88 jobs require written examinations either administered directly by computer (36 jobs) or administered through multiple-choice tests that are scanned into computers (52 jobs). Those applicants wishing to take computer-administered tests can do so at the division office in Nashville or at nine Department of Employment Security offices located throughout the state. To take multiple-choice tests, applicants must either come to the division office or wait for division staff to come to their area, usually every month.

Qualified job applicants for specific jobs are placed on master lists called registers. When an agency is ready to hire or promote, it requests a certificate of eligibles, which is a subset of a register. This certificate is commonly called a register.

The Classification/Compensation Division obtains and reviews salary and benefits information from other southeastern states and the private sector to help ensure that state employees are properly classified and fairly compensated.

The Employee Development and Equal Employment Opportunity Division provides a variety of training and developmental opportunities to state employees. One such opportunity is the Tennessee Government Executive Institute (TGEI), an annual three-week school designed to develop the leadership skills of senior-level managers.

The division is also responsible for providing standards and procedures for agencies in the development of their affirmative action plans. The division provides training in fair employment practices and offers programs and activities to help prevent unlawful employment discrimination.

The Employee Relations Division acts as an advocate for state employees, advising them and the public on civil service rules, policy, and law. The division is also responsible for the Employee Sick Leave Program, Employee Suggestion Award Program, Employee Service Award Program, and the State Employee Charity Fund.

The Examinations Division is responsible for developing assessment methods to ensure the valid selection of state employees. Assessment methods, which must meet legal guidelines and changing job requirements, include written tests and the rating of training and experience.

The Information Systems Division is responsible for all information systems support for the department's mainframe, local-area networks, and wide-area networks.

The Research Division acts as an internal consultant to the Department of Personnel and other executive branch agencies on policy options and assessment methods. In addition, the division assists state attorneys with legal issues.

The Technical Services Division is primarily responsible for processing general employee transactions, such as hirings, promotions, transfers, separations, and attendance and leave adjustments.

CIVIL SERVICE COMMISSION

The Civil Service Commission serves as an independent appeals body for executive branch employees who go through the state's five-step grievance procedure. Decisions by the Civil Service Commission are final, and any further appeals must be made to chancery court. The nine members of the commission serve staggered six-year terms and are appointed by the Governor from the public at large. Current commission membership includes four female members and two African-American members. The Department of Personnel coordinates commission meetings and the Commissioner of Personnel acts as the secretary.

ANALYSES AND RECOMMENDATIONS

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1. Hiring Agencies Expressed Concerns About the Register System

In order to determine executive branch agencies' opinions about the state's hiring system and the services they receive from the Department of Personnel, we interviewed staff (the personnel officer and a hiring manager) from each of the ten departments that use the register system most often:

- Department of Children's Services
- Department of Correction
- Department of Employment Security
- Department of Environment and Conservation
- Department of General Services
- Department of Health*
- Department of Human Services
- Department of Revenue
- Department of Safety
- Department of Transportation

*The department's personnel officer also acts as personnel officer for the Department of Mental Health and Mental Retardation.

We also interviewed the staff attorneys for several of these agencies. The major areas of concern identified (as well as the results of our follow-up work, as applicable) are presented below.

Need for More Flexibility in Hiring and Promoting

According to the majority of agency staff, the current registry system is too restrictive in the selection of candidates, especially with regard to hiring. Section 8-30-309, *Tennessee Code Annotated*, requires executive branch agencies to hire or promote from among the top-ranked certified job applicants on appointment lists, commonly called registers. Agencies must select from the top three interested candidates for promotions (Rule of Three) and from the top five when hiring (Rule of Five).

The agencies' primary concern was their belief that the most qualified candidates are not always eligible or "reachable" because they rank too low on registers. The staff described the register system as cumbersome, sometimes forcing hiring managers to attempt to convince less qualified applicants not to pursue an opening so that more qualified, but lower ranked, applicants can become eligible for selection. In some cases, agencies do not fill a vacancy because they do not consider the eligible applicants acceptable. The staff had fewer concerns about promotion registers because those registers can be restricted to work units (i.e., only an employee of a particular section or office can be promoted into the vacant position). This restriction allows hiring managers to choose from candidates whose work habits and abilities they know.

Hiring agency staff were interested in either expanding the Rules of Three and Five (e.g., doubling the number of eligible candidates to six for promotion and ten for hiring) or decentralizing the hiring and promoting process. Decentralization could still involve having the Department of Personnel establish minimum qualifications for each job. However, controls against discriminatory promotions and hiring would be needed in any decentralization attempt. (See page 14 for a discussion of decentralization in other southeastern states.)

Need for Improvement in the System for Certifying Job Applicants

Hiring agency staff expressed concern about the quality of eligible candidates provided under the current registry system. They cited the following specific weaknesses: (1) rigid rating standards, (2) no personal interviews, and (3) no verification of information on applications.

Rigid Rating Standards. The Examinations Division develops rating guidelines and/or written tests for each job classification after consulting with "subject matter experts" at agencies that hire staff in that job classification. These "experts" are staff who either supervise or are affected by individuals in that job classification. For jobs requiring written tests, the applicants are examined via computer and their scores are ranked and placed on the appropriate register. For jobs requiring a rating of education and experience, rating analysts at the Applications Services Division use guidelines to evaluate the applications; they assign a score to those applications that meet the job's minimum qualifications. Scores are entered into a computer system and then are ranked by this system.

Several hiring agency staff expressed concerns that rating analysts were not knowledgeable about the complexity of the jobs for which they rated applications. Eligible candidates may be technically qualified but not really meet an agency's needs. (For example, staff complained about inadequately qualified candidates for clerical, purchasing, environmental

specialist, engineering, legal, and middle management positions.) The staff stated that rating analysts can be inflexible, focusing on whether applicants meet rigid rating guidelines as opposed to trying to determine whether applicants were actually qualified for the job. The Director of Applicant Services, however, states that he is unable to hire specialists for each job classification. (Currently, rating analysts are not required to have any type of specialized education, just a bachelor's degree or equivalent experience.)

Hiring agency staff also expressed concerns that current rating procedures sometimes tend to favor job experience over educational attainment. As a result, applicants with less job experience but good educational credentials may not score high enough to be eligible. (See page 17 for a discussion of a Department of Transportation pilot program to counteract this problem when hiring entry-level civil engineers.) In addition, rating procedures do not allow rating analysts to evaluate the quality of job experience on applications. The procedures reward good performance in state employment (by adding up to three bonus points) but do not penalize bad performance. The rating credit job applicants receive for their years of state service does not reflect poor performance, lack of motivation, or disciplinary problems. (Hiring agency staff were also concerned about access to performance evaluation information on state employees they want to hire. According to Department of Personnel staff, evaluation data are available only through the State Employment Information System for an agency's own staff. Requests for evaluation information on another agency's employee must be obtained through that agency or the Department of Personnel. However, staff at some of the agencies interviewed stated that they were unable to get such information from the Department of Personnel.)

No Personal Interviews. According to Applicant Services rating procedures, rating analysts are to consider an applicant's "personal characteristics" during scoring. However, the absence of a personal interview would seem to severely limit the analyst's ability to determine the applicant's personal characteristics. According to hiring agency staff, personal interviews are important in determining whether candidates can actually perform the work required, fit into the office's organizational culture, and deal professionally with the public.

Hiring agency staff believe candidates who add the "right words" on applications or who are good at taking written tests have an unfair advantage over other candidates. Interviewing applicants as part of the rating process would help screen out applicants who look good on paper but are actually less qualified.

Under the current system, interviewing all applicants as part of the rating process does not appear feasible. The Director of Applicant Services stated that he did not have enough staff to interview all applicants—the division receives around 45,000 applications annually, requiring approximately 88,000 ratings (applicants can apply for more than one job). The director added that hiring agencies conducted the "final test" of the application process by conducting interviews of eligible candidates. However, these interviews occur after the scoring and ranking of candidates are complete and, therefore, have no impact on which applicants are eligible to be hired.

No Verification of Applicant Information. The Applicant Services Division does not verify the information job applicants submit, assigning that responsibility to hiring agencies. Applicants do sometimes lie on their applications or stretch the truth regarding their job experience, education, or other requirements (e.g., valid driver's licenses or immigration permits). Such falsification may keep qualified candidates from becoming eligible. The fact that applicants cannot be interviewed as part of the rating process exacerbates the situation.

Applicant Services staff stated that pursuant to Section 8-30-305, *Tennessee Code Annotated,* applicants who falsify information can be removed from registers if the hiring agencies complain. According to staff, the department receives approximately 25 such complaints per year, and job applicants, as a result, are sometimes disqualified for presenting false information. However, any claim of falsification must be verified by the department and could be time-consuming (registers are only valid for 20 work days). In addition, disproving applicant information that is merely exaggerated can be difficult.

Clogged Registers

Getting enough candidates to interview can sometimes be difficult, according to hiring agency staff, because of the large number of applicants who are not interested in working for their agencies. In many cases, candidates are state employees who are only interested in jobs at their current places of employment or want to remain on registers to increase their sense of security, in case they decide to leave their current jobs. One agency personnel officer stated that she had to go through "pages" of registers to get enough candidates to interview. A hiring manager at another agency said that he had to send out approximately 200 letters (notifying applicants they were eligible) in order to hire for some administrative support positions (e.g., secretaries and clerks). Agency staff also expressed frustration at having to consider candidates whom they have previously interviewed and deemed unacceptable, and who are now blocking other candidates from becoming eligible.

According to Section 8-30-309, *Tennessee Code Annotated*, the Commissioner of Personnel may remove candidates from registers after they have been considered three times for positions or if they have expressed unwillingness to accept appointments. The department's interpretation of Title 8, Chapter 30, Part 3, according to the Director of Applicant Services, is that hiring agencies cannot remove from future registers applicants who have shown no interest in interviewing. (Although the "State of Tennessee Application Form" does allow applicants to indicate which agencies they are interested in working for, applicants do not always take advantage of this opportunity.)

One factor contributing to the large numbers of uninterested candidates is the extended time applicants' scores are valid. Scores for job classifications determined through the rating of education and experience are valid for two years; scores determined solely by written tests are valid indefinitely. The Director of Applicant Services believes a time limit for written test scores may be needed because many applicants lose interest in the positions by the time they are contacted for interviews.

Management Oversight of the Rating Process

Hiring agency staff expressed concern about the fairness and consistency of some of the department's rating analysts. For example, some applicants scored higher for senior-level positions than for more junior positions. In other cases, ratings were influenced by the wording in the applications, as opposed to the substance (i.e., specific education or experience). Staff also stated that analysts sometimes had difficulty translating military experience into civilian experience.

Supervisors do not routinely audit the scoring of junior analysts, except during initial training or in cases of agency complaints. Any audits that may have been done were not documented, and there is no division policy on how and when audits should be performed. The recent turnover in analysts has increased the need for close supervision of application scoring. Between August 1997 and December 31, 1997, four of the seven analysts left the department. These analysts have now been replaced and an additional analyst has been hired. Because the hiring agencies (rather than the raters) face the direct repercussions of poor scoring, it is important that supervisors frequently monitor analysts' work to ensure that rating guidelines are followed.

Other Less Pervasive Concerns

The following issues, although not a concern systemwide, are of great importance to the agencies involved and may identify areas where improvements could be made systemwide: hiring of staff before background checks are completed, salary inequities, promotions of technical staff, application processing times, and classification request processing.

Correctional Officers Hired Before Background Checks Completed. As part of a pilot program, correctional officers for state prisons are hired before background checks are completed. The main background check involves the National Crime Information Center and takes about three days. In addition, applicants' fingerprints are sent to the Tennessee Bureau of Investigation for analysis—this process takes four to six weeks. According to Department of Personnel staff, the reason officers are hired before checks are completed is the high turnover of such staff (approximately one-third annually). This speeding up of the hiring process allows the Department of Correction to make offers to candidates before they find alternative employment.

However, Department of Correction staff expressed concerns that the accelerated hiring system sometimes results in the costly and time-consuming process of terminating officers who do not pass their background checks and then restarting the hiring process. They suggested reintroducing the system that allowed the department to screen correctional officers before they were hired.

Some Supervisors of Purchasing Staff Paid Less Than Their Subordinates. According to Department of General Services staff, two of the purchasing administrators, who are responsible for supervising all purchasing agents and supervisors, are paid less than some of their subordinates. For example, one purchasing administrator's salary was 82 percent of the salary of one of the purchasing agent supervisors. In addition, some purchasing agent supervisors made

less than some purchasing agents; one supervisor's salary was 78 percent of one purchasing agent's salary.

The staff indicated that despite repeated attempts on their part, the Department of Personnel refuses to correct these inequities by increasing the salaries of the purchasing agent administrators, despite the availability of higher pay steps. According to the staff, the Department of Personnel explained that the higher salaries of some purchasing staff resulted from their long tenure with the state and therefore nothing could be done to correct the problem.

The two purchasing administrators supervised the purchasing of approximately $213 million in goods and services (excluding Department of Transportation purchases) in fiscal year 1998. If the Department of General Services cannot pay equitable salaries, it may have difficulty retaining supervisors of purchasing staff, decreasing the efficiency and effectiveness of state purchasing.

Department of Environment and Conservation Technical Staff. It is the Department of Personnel's policy to require supervisory experience for higher level positions. Therefore, environmental specialists and environmental engineers employed by the Department of Environment and Conservation's Bureau of Environment need supervisory experience to be promoted. This requirement poses difficulties for bureau management when technical staff who may not have the desire or skills to manage people have to be promoted to receive salary increases. Without the ability to offer salary increases, the bureau finds it difficult to retain these needed technical staff, who have science or engineering backgrounds.

As a result of the supervisory requirement, the bureau has been forced to design its organization not to maximize efficiency and effectiveness, but to enable technical staff to be promoted, by giving them a few staff to supervise. Bureau management suggested a two-track career system for the bureau—one track for employees wishing to become part of management and the other track for those employees wanting to remain in the technical area.

Application Processing. Some hiring agency staff stated that the Department of Personnel took too long to process job applications. To follow up this concern, we reviewed 84 applicant files randomly selected from calendar year 1997. For the files reviewed, processing times (i.e., the time interval from the date the application was submitted to the date the information was posted on the register) ranged from 0 days to 141 days, with an average processing time of 13.5 days. For 12 applicants, the process took over 30 days. Section 8-30-302, *Tennessee Code Annotated*, requires that applicants be notified (in writing) of their rating score within 90 days after the department receives the application. Department staff stated that their informal goal is to process applications within two to three weeks. Based on these guidelines, most applications (but not all) were processed timely.

Processing of Classification Requests. A few hiring agency staff expressed concern about the length of time it takes the Department of Personnel to process classification requests (i.e., requests to establish new types of positions or modify the requirements for existing positions). To follow up this concern, we reviewed 174 classification requests for calendar year 1997. (Another

74 requests could not be reviewed for timeliness because they lacked documentation of completion or receipt dates.) Of the classification requests reviewed, 140 took less than a month for the Department of Personnel to process, 20 took one to two months, and 14 took more than two months. According to Personnel staff, the department has no formal or informal time guidelines for processing classification requests.

Recommendations
and
Management's Comments

The department should, in consultation with executive branch agency staff, explore methods to enhance flexibility in hiring and promoting to increase the quality of eligible job applicants and to retain technical staff.

The employment interview is one of the most important steps in the hiring or selection process. The Department of Personnel has insufficient staff to conduct personal interviews of all applicants seeking employment; likewise, the interviews conducted by agency staff for employment purposes occur following an applicant's scoring and placement on employment registers.

The Department of Personnel's current strategic plan defines the development of an examination system, which will permit agency-conducted employment interview results to be combined with existing applicant examination scores. The rank or standing of an applicant on the final employment register for a specific position would include, as appropriate, the applicant's written or computer-administered test score, performance test score, interview results, and educational training and employment experience rating.

The Department of Personnel should take steps to increase hiring agencies' involvement in the development and improvement of rating procedures. Possible improvements are the inclusion of relevant information from performance evaluations and the prompt removal from registers of candidates who have presented false or misleading information.

Representatives of all agencies having positions for which an examination is used collaborate in development of the examination, including guidelines used to rate applicant education and experience.

State performance evaluations are only used to add "promotion bonus points" to scores on promotion lists. Because federal employment law prohibits use of scoring procedures that have not been subject to validation, and because performance evaluations for one job are not necessarily relevant to performance of a different job, extending use of performance evaluation information is unlikely to withstand challenge. Candidates whose performance is not satisfactory are

barred from appearing on promotion lists. Such information is not available, of course, for candidates who are not current Career Service employees.

Removal of persons from registers who have presented false or misleading information on their applications is immediate once proof of intentional falsification is established. As a general rule, applicants are removed for falsification of educational achievement, i.e., applicant claims to have a B.S., B.A., M.S., etc., degree but cannot provide a diploma.

The Department of Personnel should review its processes and procedures to identify changes to address hiring agencies' concerns about clogged registers.

The Department of Personnel is currently considering making several changes to the civil service register process in an effort to reduce the "clogging" problem as explained below:

- *Create a new promotional register type that only includes applicants who are seeking career-path changes to equal or lower level classifications. This change would remove those applicants from consideration for true promotional opportunities. Detailed guidelines for the selection criteria would be required.*

- *Increase the number of county preferences an applicant can select from 5 to 10 counties. Currently, applicants who want to be considered in more than 5 counties must select "statewide." These applicants are coded as "not interested" when they appear on registers for counties in which they are not interested in working. This change should reduce the number of applicants who must select "statewide" which, in turn, should reduce the number of applicants coded as "not interested" on the register.*

- *Allow applicants to identify the agencies for which they want to be excluded from consideration. This change would reduce the number of applicants coded as "not interested" in particular agencies.*

The Department of Personnel should limit the amount of time scores are valid to reduce the number of applicants on the register who are no longer interested in state employment. After one year, applicants should contact the department if they are still interested in remaining eligible for state job opportunities.

The length of time an applicant's name may remain on a register without reapplying and retesting is limited. The timeframe for the life of a register, once established, is a minimum of six months, although no maximum timeframe requirement exists. Registers may be abolished by the Department of Personnel, as required, pursuant to Section 8-30-308, Tennessee Code Annotated. For years the Department of Personnel had an established maximum timeframe of two years

on all registers. Responding to employee feedback concerning register abolishments, the department revised its policy on registers which required written or performance testing. The rationale for extending the life of "tested" classification registers was to benefit applicants working as state employees. Why should an applicant employee interested in promotion to a higher job title have to be retested every two years on the same test just to remain eligible for promotion? The revised testing policy for written and/or performance tests was to permit an applicant's name to remain active on the register until the test was revised and the register abolished.

The department began efforts in late 1997 to convert all written and performance tests from paper and pencil tests to computer-administered examinations. As a result of the implementation of new computer-administered tests, all existing registers for classifications previously examined by paper and pencil or performance tests will be abolished and reestablished by July 1, 2000.

The removal of applicant names from registers because of lack of interest or nonresponse to an interview letter occurs on a daily basis as agencies attempt to fill vacant positions. The Department of Personnel has on numerous occasions forwarded correspondence to applicants on registers for specific classifications, inquiring as to their continued interest in state employment. An annual review of the volume of applicant names appearing on registers and notification of those applicants on high volume registers, inquiring as to their continued interest in state employment, can certainly be undertaken.

The Applicant Services Division should develop and implement policies and procedures requiring and documenting supervisory reviews of rating analysts' activities.

The Applicant Services Division will develop and implement formal audit procedures for training and experience ratings. It has been the longstanding practice of the division to audit training and experience ratings on an informal, unstructured, and as needed basis. The ratings of new analysts are extensively reviewed. The division now has sufficient staff to formalize its post-audit practices to better ensure accuracy and consistency.

The department's Classification/Compensation Division should review its method of processing classification requests, set reasonable time guidelines for that process, and periodically evaluate the division's adherence to the guidelines and the need to make changes to improve services to state agencies.

The length of time required to process a classification request is greatly dependent on whether the request is to reclassify an existing position, or to establish a "new type of position" which involves others outside of the Classification/Compensation Division. Other factors that affect processing time are the amount and quality of information initially provided by the agency, and

the overall scope of the project. We have set a guideline of making an initial assessment of agency classification requests within one week of receipt and contacting the agency to convey anticipated timeframes for completion.

2. Some Southeastern States Have Decentralized Their Selection Systems

Several southeastern states and the federal government have moved toward a more decentralized selection (i.e., hiring and promotion) system in an attempt to provide hiring agencies more flexibility and make hiring and promoting more efficient and effective. In addition, the legislative and judicial branches in Tennessee already use decentralized selection methods.

Our interviews with personnel staff in ten southern states (Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia) indicated a regional trend toward decentralization. (See map on page 15.) Six of the states—Arkansas, Florida, Georgia, North Carolina, South Carolina, and Virginia—have decentralized personnel systems; systems in Alabama, Kentucky, Louisiana, and Mississippi are centralized. Georgia abolished its civil service system in 1996.

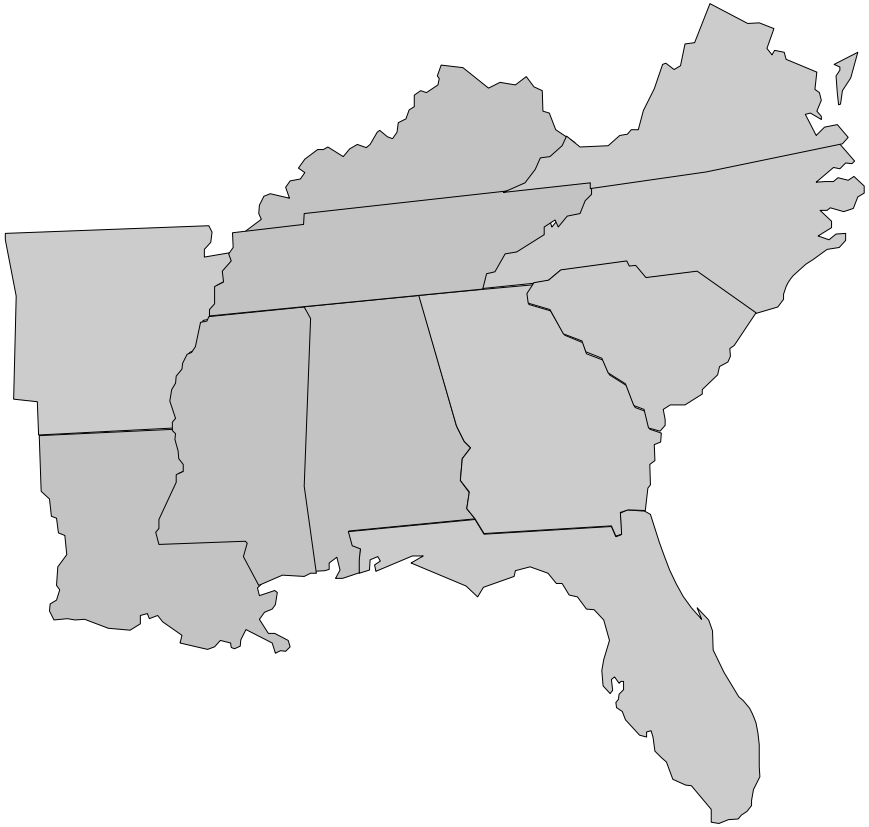
To obtain more information about decentralization and its implementation, effects, advantages, and disadvantages, we reviewed decentralized executive branch personnel systems in four southeastern states. In addition, we looked (in less detail) at the federal government's efforts to decentralize and at decentralized systems in some Tennessee state agencies, in both the executive and non-executive branches.

Decentralized Systems in Four Southeastern States

Our reviews of the selection systems in Florida, Georgia, North Carolina, and Virginia included an analysis of applicable state laws, departmental rules, and personnel policies and interviews with the following persons within each state:

- Staff from the state's central personnel department
- Two agency personnel directors
- A hiring manager within each agency
- A staff attorney from one of the agencies

PERSONNEL SYSTEMS IN SOUTHEASTERN STATES



States with Centralized Personnel Systems

States with Decentralized Personnel Systems

Department of Personnel
Southeastern State Agencies Contacted

	Florida	Georgia	North Carolina	Virginia
Central Personnel Department	Department of Management Services	Georgia Merit System	Office of State Personnel	Department of Personnel and Training
Agencies	Department of Highway Safety*	Department of Juvenile Justice*	Department of Health and Human Services*	Department of Health*
	Department of Corrections	Department of Human Resources	Department of Transportation	Department of Transportation

* Contacted staff attorney in this agency.

A comparison of selection procedures in the four states revealed certain similarities. Each state has a central personnel department that promulgates rules and establishes policies and proce dures. The agencies have been delegated selection authority, but actions must be within guidelines set by the central personnel department.

Generally, an agency formally announces a vacant position, describing the minimum qualifications and desired knowledge, skills, and abilities for that particular job. Agencies usually accept applications for advertised positions only, and applications are received at the agency's personnel office. Agency personnel office staff screen the applications for minimum qualifications and knowledge, skills, and abilities. Applications are sometimes ranked into categories such as highly qualified, qualified, or not qualified. The applications that pass the initial screening are sent to the operating unit/hiring manager for interviews.

Interviews are conducted by the hiring manager or by panels that are diverse in race and gender. Candidates are asked the same questions and are given the same work sample when applicable. Some agencies require hiring managers to interview some minimum number of candidates, although managers may choose to interview a larger number. The hiring manager then makes the selection decision (with advice from the panel, if applicable) and sends the decision to program management or the agency's personnel office for approval.

An agency's personnel office has a significant role in the selection process. For instance, staff at the office screen applications, approve interview questions prior to the interviews, determine candidate eligibility, and review selection decisions. Each state's central personnel

department has a limited role in the process, however. It is the responsibility of a state's central personnel department to establish rules, policies, and procedures governing personnel actions, but the central department does not necessarily approve or review selection decisions. The central department may serve as a resource or consultant to the agencies when problems arise.

Decentralization in the Federal Government

At the federal level, executive branch agencies have assumed more authority as the personnel system has evolved over time. In its January 1997 document *Human Resources Management Accountability in Federal Agencies: Current Efforts and Future Directions*, the Office of Personnel Management (OPM) explains how various factors (e.g., increasing pressure for less central control and more agency autonomy) have resulted in the delegation of some personnel functions, primarily examining authority, to the agencies. As a result, OPM has been able to do away with most central registers. OPM is still, however, responsible for establishing personnel rules.

Decentralized Systems in Tennessee

In Tennessee, the civil service system applies only to executive branch agencies. Agencies in the legislative and judicial branches have long used their own selection procedures. For example, the Office of the Comptroller of the Treasury uses (but is not bound by) registers for clerical, technical, or computer-related positions. However, the office does not use registers for auditor positions. Staff indicated that the register system does not produce the quantity of candidates needed to fill these positions. Applicants submit resumes in person, on-line, or through the mail. In addition, applicants must submit a state application, a transcript, and (for some positions) a writing sample. Personnel staff use a checklist to ensure applicants have submitted all materials. The Personnel Director, the appropriate division director, and/or the assistant director interview applicants who have a grade point average of 3.0 or higher. The Personnel Director or the division director can make the selection decision.

The Office of the Attorney General does not use the register to fill any positions. Instead, the office has its own applications for paralegal and secretarial positions. In addition, secretarial applicants must pass a test. Persons applying for an attorney position need only submit a resume. Personnel staff screens the applications and resumes and sends them on to the appropriate division. The Deputy Attorney General in that division will interview the candidates who passed the screening. There is no limit to the number of persons who can be interviewed. Following the interviews, the Deputy Attorney General makes a recommendation to the Attorney General who must approve the recommendation. Personnel staff review each selection decision to ensure it was appropriate.

Within the state's executive branch, the Department of Transportation has been granted an exemption from the register system. Section 8-30-333, *Tennessee Code Annotated*, allows the department to hire entry-level civil engineers outside the system. According to Department of Transportation staff, although the law was passed in 1987, the Commissioner of Personnel did not approve a separate job classification to implement the program until March 1998. Transportation staff stated that many of the engineers on the register are not "transportation-oriented" and do not

have the communication skills needed for field operations. For example, many engineers have been laid off from other industries, such as the space industry, and are trying to get any job. The new program allows the department to recruit and hire recent engineering graduates. Not only does the program allow the department more flexibility in hiring individuals with relevant skills, but also more flexibility in salary offers.

Controls Built into Decentralized Systems

A potential weakness of decentralized personnel systems is the opportunity for discrimination and political favoritism in the selection process. Staff in Florida, Georgia, North Carolina, and Virginia mentioned a variety of controls to prevent unfair hiring practices, including state laws and policies, selection procedures, outside monitoring, and complaint/ grievance processes.

State Laws and Policies. When discussing relevant state laws and policies, staff most commonly cited Equal Employment Opportunity (EEO), Affirmative Action, and nepotism policies. All states have statutes requiring fair employment practices. North Carolina state law specifically addresses political favoritism. The 1997 bill amending Chapter 126 of *North Carolina General Statutes* called for the "open, fair, and nonpolitical selection of the most qualified persons for state government employment by limiting political hirings." To achieve this end, agencies must hire from the "pool of most qualified persons for State government employment without regard to political affiliation or political influence." Furthermore, Executive Order 113 states that "citizens and the state government workforce deserve strong assurances that skills, knowledge, and merit are the basis for state government hiring decisions, not political patronage."

Selection Procedures. Staff in the four states also indicated that selection procedures provide controls. Examples include excluding hiring managers from the screening process, approving interview questions and panel compositions before setting interviews; asking candidates the same interview questions; and having third parties review selection decisions. Staff mentioned required documentation as another control. Most agencies document the entire selection process, and hiring managers are required to submit summaries of their decisions, including justification for the action.

Monitoring. Laws in the four states authorize the central personnel department to monitor the personnel functions of the agencies. However, some of the central departments have not implemented related procedures. Florida and Georgia do not have formal systems for monitoring state agencies, while North Carolina and Virginia do. The North Carolina Office of State Personnel has recently established a Program Review division to audit agencies' personnel actions. Agencies will submit internal evaluation reports to the division, and the division will determine audit issues based on the reports. At the same time, the division will monitor agency personnel actions to determine audit issues. Annually, the Office of State Personnel will compile data from the audits and report to the General Assembly. At this time, the division is so new it is not fully staffed and has not finalized its procedures. The division is working with the agencies in developing auditing standards.

According to Virginia Department of Personnel and Training staff, agencies must record all personnel actions on the automated Personnel Management Information System (PMIS). Each quarter, department staff review through the PMIS the actions of two or three agencies. If staff notice major violations or "red flags," the agency will be investigated.

At the federal level, the Office of Personnel Management's (OPM's) Merit System Oversight and Effectiveness Division monitors federal agency personnel actions. The OPM's oversight responsibility includes ensuring that personnel practices are carried out in accordance with the Merit System Principles. The OPM identifies violations of the principles and related laws, rules, and regulations through assessment of agency human resources management.

Complaint/Grievance Processes. Staff also cited applicants' opportunity to complain as an additional control in a decentralized system. All the states have a grievance procedure for applicants who believe they were treated unfairly by the hiring authority. Anyone claiming discrimination can file a complaint with a state's EEO office.

Advantages/Disadvantages of Decentralized Systems

The staff we interviewed cited several advantages of a decentralized personnel system—flexibility and timeliness were considered the major advantages. With delegated authority, agencies have greater flexibility in recruiting and are better able to select the candidate that best fits the organization, without the restriction of registers. Additionally, agencies do not have to wait for the central department to develop registers or wait for examination dates, resulting in faster processing times. Another advantage is that agencies can be more innovative and more responsive when they have more autonomy. It is difficult for a central department to know the needs of all agencies. Under a decentralized system, the central department can concentrate on assisting agencies.

Disadvantages of a decentralized personnel system include the possibility of abuse, inconsistency, and confusion, according to agency staff. Despite controls, instances of discrimination and political favoritism can occur. Inconsistent policy applications and decisions are more likely when there is no central personnel administration. In addition, applicants may become confused about application procedures since each agency does its own advertising and hiring. Agencies with few resources and a small human resources staff may have difficulty adjusting to the increased responsibility. Also, hiring managers face greater personnel responsibilities, including documenting selection decisions, because of their increased role in the selection process.

Legal Issues Under a Decentralized System

The threat of legal challenges to selection decisions is a particular concern under a decentralized system. However, with the exception of the Georgia Department of Juvenile Justice, the agencies we reviewed in the four southeastern states and in Tennessee had not had significant legal problems with their selection decisions. Although some decisions have been challenged, most have apparently been upheld.

According to staff, the Georgia Department of Juvenile Justice received a substantial number of grievances in 1997 charging unlawful discrimination, and some of the complaints resulted in settlements. Factors such as lack of documentation, agency growth, changes in programs, and poor communication between management and staff may have contributed to the problems. To address the problems, the department has reemphasized the importance of documenting the process and reasoning involved in a particular selection decision.

Strategies for Implementing Decentralization

Delegating selection authority to agencies requires serious consideration and study before implementation begins. Our review of information on the personnel systems in the four southeastern states and the federal government identified methods that may make the process smoother. For example, decentralization can be phased in gradually. North Carolina and Virginia both decentralized gradually with agencies' assuming more authority over time. Each agency had to apply for decentralization and was not approved unless it met certain criteria. Agencies have decentralization agreements with the state's central personnel department, and the agreement can be revoked if an agency is not in compliance. Alternatively, in Florida and the federal government, agencies propose and test new hiring methods as pilot/demonstration projects, which are then evaluated by the central personnel agency.

Decentralization requires considerable effort by both the central personnel department and the agencies. The central personnel department must work with the agencies to develop clear and concise personnel policies. Department staff should also serve as policy experts to assist the agencies in complying with decentralization agreements, interpreting policies, and dealing with related problems. Model guidelines, such as those developed by the central departments in Florida and Georgia, can help guide agencies through personnel actions. Most important, the central department must monitor agency personnel actions to ensure compliance and to help agencies improve their efficiency and effectiveness.

The hiring agencies should be held accountable for selection decisions based on established policies. The Office of Personnel Management suggests that accountability be placed where the selection authority lies and that agencies develop self-assessment techniques to evaluate their effectiveness. Agency staff, including supervisors and managers, should be well trained in selection policy and related laws. Communication among agency leaders, personnel officials, managers, and employees is also important to the success of decentralization.

The Tennessee Department of Personnel's traditional, centralized selection system may be too restrictive, unnecessarily limiting agencies' role in the hiring and promotion of employees. (See an analysis of agencies' concerns on page 6.) As the functions of government agencies become more complex and less easily categorized, hiring agencies may need increased flexibility to determine which candidates best fit their organizations' needs.

Recommendation
and
Management's Comment

The Department of Personnel should (1) study the merits of moving away from its current selection system and delegating selection authority to executive branch agencies and (2) recommend any necessary legislation to the General Assembly.

In the previous section (Analysis 1), all recommendations focus on centralizing Department of Personnel procedures while this recommendation emphasizes decentralization. The Department of Personnel continues to stay abreast of these issues and monitors proposed or implemented innovations nationwide. As the department evaluates innovative approaches regarding centralization and/or decentralization of personnel functions, enhancements to the current state system are implemented as appropriate.

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3. Job Applicants Are Generally Satisfied

We surveyed job applicants (both successful and unsuccessful) who applied in fiscal year 1997 to determine their level of satisfaction with the Department of Personnel's services. Surveys were sent to 200 successful applicants and 200 unsuccessful applicants. We received responses from 44 percent of successful applicants and 32 percent of unsuccessful applicants—an overall response rate of 38 percent.

Both successful and unsuccessful applicants appeared, overall, to be satisfied with the Department of Personnel's services (see survey responses on page 23). The majority of applicants indicating an opinion strongly agreed or agreed that the department (1) provides adequate information about employment opportunities with the state, (2) provides adequate assistance in applying for such opportunities, and (3) examines needed skills when evaluating job applications. In addition, the majority of respondents indicated that the department had processed their applications in a timely manner.

Applicants did, however, raise several concerns. Some applicants indicated that they could not find adequate information on state jobs in some of the following locations: (1) newspapers/magazines, (2) local government agencies, (3) other state agencies, (4) private employment agencies, and (5) the Department of Personnel. Some respondents indicated that they asked the department for but were not provided (1) tips on what and what not to do when applying, (2) contact people at hiring agencies, and (3) information on applying for specific jobs.

In addition, some applicants responded that the process used by the department to evaluate applicants is inadequate either because rating analysts do not properly take into consideration their education and/or experience, or because the material on written tests is not relevant to the jobs applied for. When asked about serious problems preventing the state from attracting qualified job applicants, respondents most often replied (1) low pay, (2) inadequate

information on job openings, (3) inadequate information on how to apply for jobs, and (4) delays in hiring.

Recommendation
and
Management's Comment

The Department of Personnel should determine if any improvements need to be made in its operations, including providing information to job applicants and expediting the hiring process. The department should also (1) conduct wage and salary surveys, as needed, to determine if low salaries are preventing the hiring of qualified state workers and (2) report the results, including recommendations for any needed changes, to the General Assembly.

> *The Classification/Compensation Division conducts several salary surveys each year and participates in many more surveys from both public and private sector employers. The results from these surveys are used to identify our competitive position in the marketplace, and to assist us in making decisions on which classifications need to be upgraded in order to attract and retain qualified employees. Survey data is also used to make recommendations to the Executive and Legislative Branches of government about how to best utilize funding made available to address compensation issues.*

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4. Agencies' Annual Affirmative Action Plans Are Not Submitted Timely

Executive branch agencies failed to submit their annual affirmative action plans by the deadline set by the Department of Personnel. A delay in the submission of plans may impede attempts to achieve affirmative action goals.

The Department of Personnel describes affirmative action as a planned, coherent management program that provides for equal employment opportunity. The department also asserts that a viable affirmative action program results from a careful analysis of an agency's particular circumstances, concerns, and opportunities for improvement.

Executive Order 2, issued on February 27, 1995, authorizes the Commissioner of Personnel to implement programs that are necessary to ensure the state's compliance with federal and state laws, orders, and regulations prohibiting unlawful employment discrimination and mandating affirmative employment practices. Furthermore, the Executive Order states that all departments, agencies, commissions, and employees of the executive branch are accountable for adhering to this policy. Chapter 1120-7-.04, Rules of the Department of Personnel, requires each appointing authority to submit to the commissioner an annual affirmative action plan designed to conform to the department's affirmative action guidelines. The commissioner is charged with establishing appropriate guidelines and procedures governing the preparation, submission, and review of the affirmative action plan by each agency.

Department of Personnel
Surveys of Successful and Unsuccessful Job Candidates
Selected Multiple-Choice Responses

1. The Department of Personnel provided me adequate information about employment opportunities with the state.

	Strongly agree	Agree	No opinion	Disagree	Strongly disagree
Successful:	12%	48%	20%	18%	1%
Unsuccessful:	6%	44%	33%	11%	6%

2. The Department of Personnel provided me adequate assistance in applying for a state job opening.

	Strongly agree	Agree	No opinion	Disagree	Strongly disagree
Successful:	10%	53%	26%	9%	3%
Unsuccessful:	6%	42%	29%	15%	8%

3. Based on my experience, the examination process (which can include the rating of education and experience) evaluated needed skills.

	Strongly agree	Agree	No opinion	Disagree	Strongly disagree
Successful:	5%	54%	25%	11%	5%
Unsuccessful:	4%	29%	43%	10%	14%

4. Was the department's processing (i.e., scoring and/or ranking) of your application done in a reasonable amount of time?

	Yes	No
Successful:	77%	23%
Unsuccessful:	76%	24%

5. Do you consider the department's processing of your application fair compared to the treatment other applicants received?

	Yes	No	Don't know about other applicants
Successful:	43%	2%	54%
Unsuccessful:	30%	8%	62%

6. In my opinion, the department's rating of my education was

	Not relevant to the job I applied for	Too narrow in scope	Relevant	Too wide in scope	Education not rated
Successful:	15%	15%	54%	3%	6%
Unsuccessful:	31%	13%	31%	6%	10%

7. In my opinion, the department's rating of my experience was

	Not relevant to the job I applied for	Too narrow in scope	Relevant	Too wide in scope	Experience not rated
Successful:	7%	13%	55%	1%	13%
Unsuccessful:	12%	20%	25%	3%	17%

According to department staff, the deadline for the submission of affirmative action plans for the fiscal year is October 1; however, this deadline is not specified in statute, rule, or policy. Instead, the department relies on memoranda and directives to inform the agencies of the deadline. Our review of the submission dates listed in the *Tennessee Department of Personnel Affirmative Action Planning–Plans Ready for Review* for fiscal year 1998 indicated that no executive branch agency, including the Department of Personnel, met the deadline. Of 63 executive branch departments, agencies, and commissions, only 11 submitted their plans in the month of October. Although department staff stated that extensions are granted for special circumstances, some plans were still significantly late. For example, 11 entities had not submitted their plans by the end of calendar year 1997.

Section 8-30-207, *Tennessee Code Annotated*, allows the Commissioner of Personnel to take appropriate action to secure compliance with rules, regulations, and orders. However, department staff stated that their enforcement powers are limited to notifying the appointing authority of each agency that has not submitted a plan. Section 8-30-206, *Tennessee Code Annotated*, requires all officers and employees of the state to comply with all rules and regulations. Failure to comply is a Class C misdemeanor. However, enforcement of this law would require cumbersome legal action. The Department of Personnel is also required to report instances of noncompliance in its annual report to the Governor, which is required by Rule 1120-7-.05. As of July 1998, the department had not submitted an annual report for either fiscal year 1997 or fiscal year 1998. The department does prepare quarterly analyses of the numbers and percentages of minority and female employees in state agencies' work force.

The Department of Personnel has made efforts to facilitate the process of submitting affirmative action plans. For example, *Guidelines for the Automated Affirmative Action System* is available on-line to assist agencies in preparing their plans. The automated Affirmative Action Planning System is designed to reduce tedious tasks, lessen the possibility of errors, and minimize the preparation time. Despite efforts to improve the preparation process, the absence of a formal deadline and limited enforcement powers may contribute to the agencies' untimely submission of plans.

Affirmative action plans are the tools agencies can use to look at underrepresentation and attempt to establish parity. By submitting plans annually, agencies can establish goals for equal employment and strive to fulfill those goals during the fiscal year. The timely submission of annual affirmative action plans is integral to achieving programmatic goals. When plans are late, the time remaining in the fiscal year to achieve the goals is reduced. The commitment to equal employment requires departments, agencies, and commissions in the executive branch to adhere to equal employment opportunity and affirmative action policies. Part of this commitment is the timely submission of affirmative action plans.

Recommendation
and
Management's Comment

The General Assembly may wish to consider establishing in statute a deadline for the submission of annual affirmative action plans. In addition, the General Assembly may wish to consider evaluating the Department of Personnel's enforcement powers and expanding those powers, if deemed necessary. The Department of Personnel should (1) establish a formal policy for the submission of the plans, including a deadline for submission, (2) restrict the number of extensions for extenuating circumstances and take any other necessary steps to ensure timely compliance with affirmative action policies, and (3) submit annual reports on affirmative action to the Governor.

Affirmative action plans are submitted through the automated Affirmative Action Planning System implemented during fiscal year 1996-1997. Previously, some unavoidable delays in acquiring essential data required in affirmative action planning have impacted the timely development and submittal of the plans. Extensions have been granted because of extenuating circumstances. Since the automated Affirmative Action Planning System has been implemented, more agencies (executive and non-executive) have submitted affirmative action plans than ever before.

The department's procedures will be reissued in the form of a policy and executed to ensure timely submittal of affirmative action plans.

Currently quarterly reports are compiled and forwarded to the Governor's Office detailing the affirmative action status of executive and non-executive branch agencies. In addition, a formal annual report on affirmative action will be submitted to the Governor.

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5. The Process for Cases Appealed to the Civil Service Commission Is Lengthy

The Civil Service Commission serves as an independent appeals body for executive branch employees who go through the state's five-step grievance procedure. (Decisions by the Civil Service Commission are final, and any further appeals must be made to chancery court.) The first four steps in the grievance process include appeals to successive levels of agency management—the fourth step involves the agency head. If not satisfied, an employee can appeal to the Civil Service Commission (the fifth step). Grievances appealed to the commission are first heard by administrative law judges in the Secretary of State's Administrative Procedures Division. An employee who is not satisfied with the administrative law judge's decision can then appeal directly to the commission. Section 8-30-328, *Tennessee Code Annotated*, requires that the commission issue a final decision within 120 days of the filing of a grievance. The deadline includes the time taken by the administrative law judges to adjudicate cases.

According to information provide d by commission staff, 166 grievable cases were filed with the commission in calendar years 1996 and 1997 (92 cases in 1996 and 74 cases in 1997). In 18 of the 166 cases filed, the employee appealed the decision of the administrative law judge and requested that the commission review the case.

We reviewed 27 cases filed with the commission during calendar years 1996 and 1997 to determine if the cases were processed timely. Fifteen of these cases were closed; twelve were open. Twelve of the closed cases had been heard only by an administrative law judge; the average processing time for these cases was 306 days. The administrative law judges' decisions had been appealed to the commission in three of the closed cases—the average processing time for these cases was 449 days. The twelve open cases we reviewed had not yet been heard by the administrative law judges and had been open for an average of 441 days, as of August 17, 1998.

Administrative Procedures Division staff stated that the 120-day deadline is unrealistic because attorneys representing both parties usually ask for continuances. The staff said that in order for a case to have a written order by the deadline, there would have to be no hearing and no proposed findings.

Recommendation
and
Management's Comments

The Civil Service Commission should evaluate the case-processing system, identify actions to improve timeliness, and determine a reasonable timeframe for case processing. The commission should then propose any needed legislative changes to the General Assembly. In addition, the General Assembly may wish to consider amending Section 8-30-328 to require that a written order be issued within a certain amount of time after the hearing (e.g., 90 days).

Department of Personnel: The department concurs that the current system is a lengthy process, but one that is necessary to ensure the rights of career service employees. The department will work with the Civil Service Commission and the Administrative Procedures Division of the Secretary of State's Office to evaluate the current system to determine if any actions can be taken to improve the process.

Civil Service Commission: The commission concurs with the comment of the Department of Personnel.

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6. The Department Has Provided Insufficient Guidance Regarding the Use of Administrative Leave With Pay, Particularly for Disciplinary Cases

Beyond very brief, general descriptions, the Department of Personnel has developed no written policies or procedures to guide state departments and agencies in determining when it is

appropriate to place employees on administrative leave, how long employees may remain on administrative leave with pay, and what documentation should be maintained to support their decisions. Of particular concern are cases involving employees who are placed on administrative leave with pay pending disciplinary actions. Is administrative leave appropriate in all cases? How long does the agency or department have to resolve the situation and return the employee to his/her job duties, place the employee on leave without pay, or terminate the employee?

The only written guidance the Department of Personnel provides on administrative leave is a statement in the department's rules and its policies and procedures that the appointing authority or other authorized supervisor may place an employee on leave with pay when considered necessary for the welfare of the employee or the proper operation of the agency. Department of Personnel management stated that the department generally does not question the appointing authority's discretion in granting administrative leave. In addition, the department does not require any specific documentation from the appointing authority when an employee is placed on administrative leave. After 30 days, the department may question why the employee is still on administrative leave and when he/she might be expected to return to work. (There is, however, no set limit on how long an employee may be on administrative leave with pay. Each case is handled individually.)

There may be many valid reasons for placing an employee on administrative leave with pay. However, employees placed on administrative leave for disciplinary reasons pose a difficult problem. The Department of Personnel's failure to provide formal guidance on when and for how long such leave should be granted does not encourage timely resolutions of personnel problems and may negatively affect agencies' efficiency and effectiveness. In some cases, the lack of time guidelines may encourage an agency to put off dealing with a problem employee, essentially resulting in a paid vacation for the employee and added responsibilities for the employee's coworkers.

Recommendation
and
Management's Comment

The Department of Personnel should develop written policies and procedures detailing (1) under what circumstances and for what purposes state departments and agencies may grant administrative leave with pay, (2) how long administrative leave may be granted before the situation must be reconsidered, and (3) what related documentation must be provided and when it should be provided to the Department of Personnel. When drafting these policies, the department should allow administrative leave with pay in disciplinary cases only when no alternative assignment is available. The Department of Personnel should periodically review the use of administrative leave for compliance with the procedures, particularly when an employee has been granted administrative leave for disciplinary reasons.

The Department of Personnel currently has rules, policies, and procedures that directly address the use of administrative leave with pay during legal action or

the investigation phase of the disciplinary process. In general, the appointing authority in the agency has the responsibility for approval of administrative leave with pay up to 30 days, according to the Rules of the Department of Personnel. Administrative leave with pay that exceeds 30 days must be approved by the Commissioner of Personnel.

Administrative leave with pay must be used during the investigative process prior to the receipt of minimum due process for individuals who, because of the nature of the investigation, should not be allowed to remain on the job. After minimum due process, administrative leave without pay is permissible.

The Department of Personnel will consider amending its rules, policies, and procedures to clarify this issue.

RECOMMENDATIONS

LEGISLATIVE

This performance audit identified the following areas in which the General Assembly may wish to consider statutory changes to improve the efficiency and effectiveness of the Department of Personnel's or the Civil Service Commission's operations.

1. The General Assembly may wish to consider establishing in statute a deadline for the submission of annual affirmative action plans. In addition, the General Assembly may wish to consider evaluating the Department of Personnel's enforcement powers and expanding those powers, if deemed necessary.

2. The General Assembly may wish to consider amending Section 8-30-328 to require that a written order be issued within a certain amount of time after the hearing (e.g., 90 days) for cases appealed to the Civil Service Commission.

ADMINISTRATIVE*

The following areas should be addressed to improve the efficiency and effectiveness of the Department of Personnel's or the Civil Service Commission's operations.

1. The department should, in consultation with executive branch agency staff, explore methods to enhance flexibility in hiring and promoting to increase the quality of eligible job applicants and to retain technical staff.

2. The Department of Personnel should take steps to increase hiring agencies' involvement in the development and improvement of rating procedures. Possible improvements are the inclusion of relevant information from performance evaluations and the prompt removal from registers of candidates who have presented false or misleading information.

3. The Department of Personnel should review its processes and procedures to identify changes to address hiring agencies' concerns about clogged registers.

4. The Department of Personnel should limit the amount of time scores are valid to reduce the number of applicants on the register who are not longer interested in state employment. After one year, applicants should contact the department if they are still interested in remaining eligible for state job opportunities.

5. The Applicant Services Division should develop and implement policies and procedures requiring and documenting supervisory reviews of rating analysts' activities.

6. The department's Classification/Compensation Division should review its method of processing classification requests, set reasonable time guidelines for that process, and periodically evaluate the division's adherence to the guidelines and the need to make changes to improve services to state agencies.

7. The Department of Personnel should (1) study the merits of moving away from its current selection system and delegating selection authority to executive branch agencies and (2) recommend any necessary legislation to the General Assembly.

8. The Department of Personnel should determine if any improvements need to be made in its operations, including providing information to job applicants and expediting the hiring process. The department should also (1) conduct wage and salary surveys, as needed, to determine if low salaries are preventing the hiring of qualified state workers and (2) report the results, including recommendations for any needed changes, to the General Assembly.

9. The Department of Personnel should (1) establish a formal policy for the submission of affirmative action plans, including a deadline for submission, (2) restrict the number of extensions for extenuating circumstances and take any other necessary steps to ensure timely compliance with affirmative action policies, and (3) submit annual reports on affirmative action to the Governor.

10. The Civil Service Commission should evaluate the case-processing system, identify actions to improve timeliness, and determine a reasonable timeframe for case processing. The commission should then propose any needed legislative changes to the General Assembly.

11. The Department of Personnel should develop written policies and procedures detailing (1) under what circumstances and for what purposes state departments and agencies may grant administrative leave with pay, (2) how long administrative leave may be granted before the situation must be reconsidered, and (3) what related documentation must be provided and when it should be provided to the Department of Personnel. When drafting these policies, the department should allow administrative leave with pay in disciplinary cases only when no alternative assignment is available. The Department of Personnel should periodically review the use of administrative leave for compliance with the procedures, particularly when an employee has been granted administrative leave for disciplinary reasons.

* The department's responses to these recommendations are detailed in the analyses and recommendations section of this report.