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# At-Will Employment in the Public Sector: A Case Study of the Georgia Reform

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**At-Will Employment in the Public Sector:  
A Case Study of the Georgia Reform**

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A Practicum Paper  
Submitted in Partial Fulfillment of the Requirements for the

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Department of Political Science and International Affairs

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College of Humanities & Social Sciences

Kennesaw State University

Kennesaw, Georgia

Certificate of Approval

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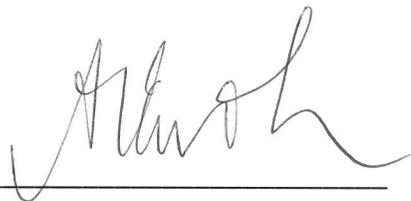
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Professional exercise in the Department of Political Science and International Affairs

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# **At-Will Employment in the Public Sector: A Case Study of the Georgia Reform**

## Executive Summary

Prior to the advent of at-will employment, elected officials and public managers have laid blame on government in the United States of being distended, unproductive, and impassive. The Civil Service Reform Act of 1978 abolished the Civil Service Commission and endorsed reformation of workforce practice and policies. Many states in the United States have followed suit, but with limited measures (Battaglio 2010). It is apparent, nonetheless, that a lot of political executives and professional managers have lingered on in aggravation, and are pushing for more considerable influence and stiffness over employees. As a consequence of at-will employment over the years, workforce reforms have given up some flexibility and direct power to managers, particularly in the federal government. On this facade, at-will employment position guarantees the utmost flexibility over employees because it gives executives absolute authority in the hiring and firing of employees for one reason or the other, and in some instances, for no reason whatsoever. The increasing use of at-will policies has attracted much attention on the outcomes of merit systems reform and public sector employment practices (Battaglio and Condrey 2006; Condrey and Battaglio 2007).

This case study makes use of a plethora of archival documents and academic literature to provide a descriptive assessment of the perception and notion of at-will employment structure in the public sector, with special emphasis on the Georgia reform. The purpose of this research is to examine the underlying reasons why Georgia opted for an at-will employment reform in the first place, and explore its significance and outcome. The paper concludes that the benefits of at-will

employment policy are uncertain and recommends other new and innovative approaches to achieving efficiency in the government.

## **Acknowledgements**

The work is dedicated to the Glory of God, the pillar of my strength, through whom all things are possible, and to my family, for their support and encouragements. They have been my source of inspiration.

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## **At-Will Employment in the Public Sector: A Case Study of the Georgia Reform**

### **Introduction**

The doctrine of at-will employment in the public sector postulates that employees may be dismissed at their employers will, for good cause or no cause at all, except where the employees are hired on a fixed term. With this in place, individual workers lack equal bargaining power in dealing with their employers. The termination of any solitary relationship means far more to the employee than the employer. The results can be very demoralizing, and not just economically. It is difficult to obtain an accurate picture of the extent to which at-will employment is expanding in the public sector, or to ascertain its potential as a growing trend, but there is evidence that it exists.

The process began with the formation of the Federal Senior Executive Service (SES) in 1978, which stimulated senior level managers (GS16 and above) to forgo civil service fortifications for the decoy of corporate mode inducements and superior duties (Green et al. 2006). The exclusion of federal civil career executives characterized the first noteworthy recoil from civil service protection. States and districts followed this pattern by shifting several of their senior professional officers to exempt or at-will category and actions have been taken to illustrate that awareness is set to the increasing drifts of at-will employment (Battaglio 2010). Regrettably, it appears there are some propounding problems with the expansion of at-will employment in the public sector that are not by and large well understood by professional managers. Managing at-will seems to a large extent more complex than it appears. The problems are legal, managerial, and political in nature and they put up directly on subjects of public reliance and organizational uprightness.

## **Purpose of the Study**

Georgia's comprehensive reform of its civil service system in July 1996 removed merit system protections from all employees hired after that date and significantly changed the relationship between the state's central personnel agency and the line agencies and departments (West 2002, 79).

Over the years, many states have started to move away from the at-will employment rule. In those states, employees who are terminated wrongfully can sue their employers for wrongful discharge and obtain money damages for their lost wages and lost opportunities. Georgia is one of the only remaining states in the United States that still refuses to provide any sort of job protection for employees (Piffner and Brook 2000). Procedural, not sizeable, due process defense are situated for Georgia employees. However, these procedural protections do not make available the job safety measures and employee privileges provided by the conventional civil service systems that the at-will systems restored.

The increase of at-will policies has finely tuned attention in the impending repercussions of the reform for merit systems and public sector employment practices (Battaglio and Condrey 2006; Condrey and Battaglio 2007). Given recent efforts, the need for analysis with reverence to the relevance and outlay of at-will creates a challenging position. Georgia is one of the states that have elected to do away with job protections through at-will legislation (Hays and Sowa 2006). The at-will employment in the State of Georgia is seen to be lopsided in favor of employers. Employees in the public sector hired after July 1, 1996 are affected by this doctrine, leaving them with little or no option but to comply with the terms of at-will imposed on them by their employers. The question then becomes, can the reasons for at-will be validated, considering the fact that it increases the rights of public managers at the expense of employee rights? While this

study focuses on Georgia, it is worth reminding the readers that other states are also faced with the challenging outlay that at-will employment puts forward (Hays and Sowa 2006).

### **Need and Relevancy**

This study transmits the proficient and academic literature of public administration in several areas. The Georgia reform has so far presented two events: One is the GeorgiaGain which uses pay for performance to provide a merit based system by which employees would be rewarded for their performance. The second is the at-will employment, which was created to give more flexibility to public service managers in the hiring and firing of employees perceived to be unproductive.

Since the focus of this paper is on at-will employment, the equity of the doctrine will be assessed from the implementation of the GeorgiaGain through pay for performance. In the process of putting this paper together, I see myself more interested on topic. For one, my interaction with colleagues and friends show that a lot of people do not even know what at-will employment is, or how it affects them. This was very disappointing, especially for those prospective public service workers among them. It is good to know that the public administration program provides potential public service workers with basic classroom knowledge that is required for them to be fully equipped and relevant to the society. This is an area that that requires more attention in order that employees are not caught unawares. This paper may also help to educate those that are willing to know what job protections they are covered by, if any at all, in the State of Georgia Public Service. The United States consists of 50 states, and these states are gradually moving towards implementing different reforms that they believe would better their public service personnel and workforce. Georgia, Florida, and Texas are the three

states that have predominantly utilized reform by taking away job protections through at-will legislation (Green et al. 2006). Who knows what other states would follow in these steps, as such it is imperative for their citizens to be aware of what job protections they are covered by.

Notwithstanding, it is my hope that this study will contribute to the academic literature that shows the weakness of at-will employment. I am of the opinion that this kind of study is an avenue to justify the lessons learned from compiling this case study and also to proffer recommendations that may be useful to Georgia public officials, policy makers, executive managers, frontline managers, and also potential public service employees.

The purpose of this study is provide a better understanding of the underlying reasons why Georgia opted for an at-will employment reform in the first place, its significance and outcome. The impact of at-will employment in Georgia public service will be assessed.

## **Literature Review**

The literature is replete with debates against at-will employment. Most authors have concluded that the at-will doctrine benefits the employer more than it does the employee, while a few others still believe that at-will is very beneficial (Hays and Sowa 2006). What exactly is meant by at-will employment? The doctrine of at-will employment in the public sector postulates that employees may be dismissed at their employers' will, for good cause or no cause at all, except where the employees are hired on a fixed term (Battaglio 2010). With this in place, individual workers lack equal bargaining power in dealing with their employers, also access to procedural due process rights such as complaints or petition procedures of public workers is either restricted or absolutely eradicated (Condrey and Battaglio 2007). How then does due process protect public employees?

According to the Fifth and Fourteenth Amendment of the U.S Constitution, courts have held that an employee has a property interest on a job if there is a written or implied contract granting the employee a property interest on the job; if past practice of the employer shows that the employee has a property interest on the job; or if a statute gives the employee a property interest on the job (Chemerinsky 1992). If a public employee has a property interest on a job, he or she cannot be discharged without due process. Due process requires that the employee be given notice of the reason for being discharged and a fair hearing at which to contest the decision (Chemerinsky 1992).

Legally, at-will employment was established through the elimination of the property interest in employment that state workers had previously enjoyed (Brook and King 2008). In traditional civil service, an employment property interest exists when an employee has a reasonable expectation of continued employment provided his or her performance is satisfactory. The government creates such an interest when it promises employees, through merit system statutes or other provisions, that they will be terminated for just cause only. When a property interest is established, constitutionally mandated procedures for termination must be followed because the Fifth and Fourteenth Amendments prohibit government from taking property without due process of law (William 1977). In termination proceedings, this requirement means at a minimum that there must be prior notice and an opportunity for employees to respond to charges before discharge occurs (Rubin 2003, 834). The distinction between a public employee and the private counterpart is that the public employee retains certain constitutional rights when he or she enters into the public service; procedural due process is one of them. The Due Process Clause serves two basic goals. The first goal is to produce, through the use of fair procedures, more accurate results: to prevent the wrongful deprivation of interests. The second goal is to

make people feel that the government has treated them fairly by, for instance, listening to employees' side of the account (Monaghan 1986).

The doctrine of employment at-will emerged as the predominant rule in wrongful discharge cases in America during the latter part of the 19th century (Green et al. 2006). In recent years, however, this doctrine has been eroding. Many employers now find that the legal environment relative to the right to fire is perplexing and mature with potential burden. The Industrial Revolution sowed the seed for the wearing away of the employment at-will doctrine (Muhl 2001). When employees began forming unions, the collective bargaining agreements they subsequently negotiated with employers frequently had provisions in them that required just cause for adverse employment actions, and procedures for arbitrating employee grievances. The recognition of employment as being central to a person's source of revenue and welfare, tied with the apprehension of being unable to protect a person's livelihood from unjust termination, led to the development of what was called judicial exceptions to the employment at-will doctrine beginning in the late 1950s (Muhl 2001). The bulk of the development of these exceptions did not take place until the 1980s, with the employment at-will doctrine being significantly worn out by constitutional law protections against wrongful discharge.

The most widespread exception prevents terminations for reasons that violate a state's public policy. Another widely recognized exception prohibits terminations after an implied contract for employment has been established; such a contract can be created through employer representations of continued employment, in the form of either oral assertion or expectations created by employer handbooks, policies, or other written assurances (Green et al. 2006). A few states have read an implied covenant of good faith and fair dealing into the employment relationship. Interestingly, Georgia, among other southern states, does not recognize any of the

three major exceptions to at-will employment (West 2002, 132). Under the public policy exception to at-will employment, an employee is wrongfully discharged when the termination is against a clear, deep-rooted public policy of the state. For example, in most states, an employer cannot terminate an employee for filing a workers' compensation claim after being injured on the job, or for refusing to break the law at the request of the employer.

The majority view among states is that public policy may be found in a state constitution, statute, or administrative rule, but some states have either restricted or expanded the doctrine beyond this bound. The public policy exception is the most widely accepted exception, recognized in 43 of the 50 States (Selden 2006, 344). The second major exception to the employment at-will doctrine is applied when an implied contract is formed between an employer and employee, even though no express, written instrument regarding the employment relationship exists (Muhl 2001). Although employment is usually not run by a contract, an employer may make oral or written representations to employees regarding job security of procedures that will be followed when adverse employment actions are taken. If so, these representations may create a contract for employment. This exception is recognized in 38 of the 50 States (Selden 2006, 345).

Recognized by only 11 states, the exception for a covenant of good faith and fair dealing represents the most significant departure from the traditional employment at-will doctrine (Facer 1998, 62). Rather than closely barring terminations based on public policy or an implied contract, this exception at its broadest reads a covenant of good faith and fair dealing into every employment relationship. It has been interpreted to mean either that an employer's personnel decisions are subject to a just cause standard or that terminations made in bad faith or motivated by malice are prohibited (Kellough and Nigro 2006).

Civil service protections arose as a corrective assessment for the ill-treatment connected with political prejudice; however, in recent years these same protections of career service employment have been identified as problems requiring corrective action. In Georgia, for example, most employees are usually regarded as employees at will (Condrey 2002). This means that an employee works at the will of the employer, and the employer can fire the worker for any reason at any time. It has been said that the worker can be terminated for a good reason, a bad reason, or for no reason at all (Green et al. 2006). The at-will rule allows an employer to terminate employees for almost any reason. For example, Georgia courts have said that employers can terminate employees for refusing to commit a crime, reporting crimes committed by other employees, filing a workers' compensation claim, filing for bankruptcy, and testifying against an employer in a court proceeding (Duffy 1994). The at-will employment rule is a legal doctrine that was developed during the Industrial Revolution of the 1800s. It came into being because courts needed an easy way to define the rights and responsibilities of employers and employees in the developing economy.

Courts had found it hard to resolve employment disputes because most employees of large companies did not have written employment contracts. Under the at-will rule, employers could hire and fire employees without going through the inconvenience of signing written employment contracts with all their employees. As a result, however, employees were left without job security (Battaglio 2010). This persists even today in states like Georgia, which are called at-will employment states. The at-will employment doctrine and the behavior of employers who benefitted from it was one of the main forces behind the rise of labor unions in the early 1900s (Markey 2002, 24). Employees who joined a labor union could bargain as a group with their employer for a contract that applied to all employees who were part of the

union. The labor contracts usually provided that the employer could not terminate, demote or punish an employee without good cause. Often, the contracts provided a grievance procedure that employees could use when they were treated unfairly.

To combat the power of labor unions, many employers began lobbying the politicians in state government for a return to at will employment (Kalleberg 2000). Nowadays, business interests often call the at- will rule “right to work,” which is only a new name for the old at-will rule. An employee's right to work means that he or she can be fired for a good reason, bad reason or no reason at all. Georgia is the right to work state.

### *Georgia Reform*

Georgia as an at-will domain in the United States still refuses to provide any sort of job protection for employees. In every case, the Georgia courts continue to say that an employer can fire an employee regardless of the employer's motives, and that the employee may not challenge the employer's decision in any way (Ballam 2000). There are still some limited protections for Georgia employees, but most of them come from federal rather than state law. For example, federal law forbids discrimination in employment on the basis of race, sex, age, religion, national origin and disability (Muhl 2001).

If a worker thinks he or she was terminated for one of these illegal reasons, and if that belief is eventually upheld in court or otherwise, the fired employee may be able to recover compensation or, in some instances, even get his or her job back. Under state law, a worker who has a written contract for a definite length of time may be able to file a lawsuit for breach of contract if the worker is fired. Other federal laws protect rights to safety on the job, wage and hour payments, employee benefit plans, family and medical leave, and union activity. In

addition, public employees have rights under the U.S Constitution and may be able to appeal adverse employment actions through a grievance system (William 1968). Is this enough for Georgia public service employees?

Before reform, individual agencies complained that the requirement for all applications to be screened by the merit system led to delays of up to six weeks in hiring qualified candidates, by which time many of them had accepted jobs elsewhere. Many agencies also found it extremely hard to fire negligent or incompetent employees, due to the amount of documentation and time required for the process under merit system rules (Walters 1997, 17). Other states have been reforming their civil service laws over the past few decades, but Georgia took a huge step beyond their efforts, eliminating the civil service code entirely for state employees hired after July 1, 1996. Since then, employees in the Georgia civil service have been aware that their employment is not a life entitlement, but conditional on continued performance and relevance (West 2002). The reform created a human resource management model that decentralized hiring and pay functions to the operating agencies, established an at-will employment status for new hires, and changed the role of the central merit system from that of regulator to consultant and facilitator.

After guiding Georgia through several successful yet divisive reforms as governor, Senator Zell Miller enacted his greatest change by reorganizing the state's personnel system. The revamp, entitled "GeorgiaGain," immediately created the most spectacular reforms in state public service since the Pendleton Act of 1883 (Sanders 2004). Georgia through this new system was to become the only state to take a part of its civil service and create a totally unclassified labor force hired through a decentralized personnel structure. Through the new program, many traditional employee protections were eliminated, with salaries determined by revised

evaluations and a pay for performance system. In 1996, Senator Zell Miller, then governor of Georgia, sought to leave another bequest from his popular administration, in this case, a restructuring of the state's merit service system (Levin and Gebo 1997). Miller anticipated a bureaucracy that would inspire and reward high quality public employees. The reshuffle was predicated on the view that management and employees were mutually responsible for the most advantageous job performance. While focusing on a new performance compensation system, the governor sought to re-engineer job classifications and other state personnel processes.

In his opening State address, Miller gave assurance to modify the system, stating that it had gone from a resolution to a quandary. Job vacancies were taking up to two months to fill, and because of massive paperwork and a lengthy appeals process, the state was taking between 11 and 19 months to dismiss employees performing poorly (Sanders 2004). Miller was particularly concerned with the lack of training given to supervisors and managers in the use of the existing performance evaluation system. The Governor's GeorgiaGain enforcement officials were charged with recommending changes in job classifications, while the state merit system and various agencies' human resource offices would implement the policy. The role of the merit system would change from enforcer of civil service rules and regulations to advisor in support of agency directed personnel programs.

The merit system would administer benefits and confer with the agencies in the areas of data management, payroll, salary appraisal, position classification and training. Agencies would control staffing and selection, as well as termination, which would become easier and faster. The agencies would also be responsible for providing due process in the event of a termination, as well as enforcing all existing anti discrimination laws and statutes prohibiting partisan politics in the workplace. However different agencies adopting different approaches resulted in differential

treatment of employees who exhibited the same level of performance (Kellough and Selden 1997, 17). GeorgiaGain was replaced with a system called performance PLUS. This program was to aim at the hiring rate of employees. It was to do this, by capitalizing on pay rates closer to competitive market salaries, and also reward employees who exceeded performance expectations, with a lump-sum performance bonus (Georgia Merit System 2001).

The Georgia legislation also contained a number of administrative reforms that emphasized the devolution and deregulation of human resources management. This aspect of the reform gave state agencies broad discretion and flexibility in structuring their personnel systems. The reformers hoped, among other things, that this change would encourage agencies to implement simplified recruiting and hiring processes tailored to their specific needs and circumstances (Sanders 2004).

The decentralizing thrust of the legislation was especially clear in that it gave state agencies full responsibility for defining job classes that are unique to each agency and setting qualifications and pay ranges for those classes. Secondly, allocating all agency positions to defined job classes, and then recruiting and screening applicants for job vacancies, and lastly developing policies needed to ensure compliance with all applicable employment-related state and federal laws (Georgia Merit System 2001). Although the reform was strongly endorsed by Governor Miller and enacted into law very quickly by a compliant state legislature, no one involved in the reform effort contemplated any systematic attempt to assess its consequences. For all practical purposes, they simply assumed that the establishment of an at-will workforce and other aspects of the reform would achieve their specified objectives. Whether that supposition is persuasive, of course, is a matter for practical study.

The reform has not existed without censure. In a 1998 study by Condrey, he alleged that some agencies were wholly unprepared to accept the new decentralized personnel authority, and pointed to indications of favoritism creeping back into the hiring process (Condrey 2002). According to Condrey, another significant shortcoming of the civil service reform has been the drastic expansion of agency created jobs. In an effort to leverage individual control over job duties and compensation, agencies have created agency-unique titles for a wide variety of jobs common across the system, from secretaries to food service workers. With so many titles presenting the same duties on different pay grades, it has become more cumbersome to analyze workforce data and ensure equitable treatment of workers across agencies (Condrey 2002).

Along with the intended transformation of the merit system came serious personnel implications. For example, without centralized coordination or oversight there was no statewide mechanism for consistent hiring, discipline, or discharge (Walters 1997). Additionally, agencies unaccustomed to the ethical and practical entanglements of recruitment, selection, and termination were suddenly afforded the opportunity to manage their own personnel systems. As an illustration of the potential for personnel damage within state agencies, Walters described the experience of a top level personnel official in his assessment of Georgia's merit reform. He reported what the personnel manager recounted, "We drafted policies for making personnel changes here, and top level management objected; they now think they're above the law" (Walters 1997, 20). A lot of top level management do not understand the implications or the consequences of matters that they consent to or disagree with. This really is a huge problem in state agencies.

Behn (1998) addressed one issue central to Georgia reform in a brief commentary on ending civil service. He indicated that private sector style management is not a cure all for all

public sector ills. While Behn's contention is that public employers must balance evenhandedness and competence, he questioned the value of trading the traditional government responsibility of fairness to ensure the flexibility that exists with decentralization (Behn 1998).

Although Georgia agencies now have enormous flexibility, the increased responsibility imposed by personnel decentralization has had a striking effect on operations. There has been no record so far of lawsuits originating from the elimination of explicit due process protections for state employees. However, state agencies must now carefully balance the rights of new, non merit employees with those of long serving employees who are still entitled to merit protections (Walters 1997). The merit system provided due process protection in the form of grievance hearings and appeals to adverse employment decisions. Those employees who were hired under the merit system and have not been promoted into new, non merit positions still enjoy due process property rights, whereas new employees have no explicit property rights (State of Georgia 1996).

Dannin (2007) in her review observes potential problems an at-will employment can cause. She examines officially authorized aspects of at-will employment and argues why public agencies should shy away from this system, and instead, embrace just cause as an alternative. This article is significant when it comes to arguing against the use of an at-will system in the public sector because it uses a comparison of problems in the private sector as a foundation. Dannin (2007) argues that at-will employment not only mars employers, but it also causes a threat to the national economy. While many claim that this system eliminates employment litigations, Dannin offers evidence of the contrary, and puts forth a reasonable argument for why employers are better off by implementing the just-cause system. According to Dannin,

between 1970 and 1989, the overall caseload in federal courts grew 125%. During the same period, the employment discrimination caseload before those courts grew by 2,166%. In 1989, there were 8,993 employment discrimination matters filed in federal courts; in 1997, plaintiffs filed 24,174 cases. Presently, approximately one in every eleven civil cases on federal court dockets involves a question of employment discrimination (Dannin 2007, 7).

The obvious trend is the extreme rise in employment lawsuits which poses great problem for agencies and the courts. In fact, the cost associated with defending these lawsuits has effects on the bottom lines of agencies, and public entities. Knowing that the courts have ruled in many instances in favor of employers does not wipe out the financial burdens on both parties. Consequently, Dannin's (2007) viewpoint that there are no adequate facts that at-will system is better for both employers and the economy. For example, "fifty-four percent of US general counsels cited employment litigation as their greatest concerns" (Dannin 2007, 7). Dannin's most built argument is that a just-cause system puts employers in a much better position against litigations. Cases will be easier to defend under a just-cause system which will require employers to carefully document the employee's performance, feedbacks, failure to meet expectations, notices, and opportunities to respond. Conversely, lack of documentation only increases the likelihood of inquiring reasons for dismissal and treatment of employees (Dannin 2007).

Kellough and Nigro (2006) tackle the blame laid on of government for being inefficient, lack of responsiveness of employees, and the failure of top line managers to lead effectively. In their efforts to understand the impact of at-will employment in the public sector, Kellough and Nigro analyze the consequences of removing civil service protections and at-will employments.

According to Kellough and Nigro, “employees may be terminated under this system with or without cause, provided that termination is not carried out of illegal discriminatory reasons or as an attempt to prevent an employee from exercising constitutionally protected rights” (Kellough and Nigro 2006, 449). At-will eliminated the property interest of employees and places them at the mercy of their employers. But, if not clearly understood, at-will has the potential of causing great confusion, and alienation for employees. Kellough and Nigro analyze the perception of both classified and unclassified employees of the at-will system. Their primary goal was to identify if different perceptions of the at-will status exist between employees occupying classified and those occupying unclassified positions.

Surprisingly, Kellough and Nigro found that at-will employees hold positive views of the unclassified system compared to classified employees. Although reasons were not provided, one can speculate that this is because of several factors, including length of time in the agency, age, and clearly defined expectations from the agency. At first, 61 percent of people surveyed said they would recommend employment with the state. However, four years after the new system, that number declined to only 40 percent (Kellough and Nigro 2006, 452). In addition, over half of employees surveyed claim not to trust their employer. Clearly, employees harbor negative perceptions of the reformed personnel system which is argued can be the basis for even more inefficiency, lack of responsiveness, and performance.

Green et al. (2006) offer a broad analysis of at-will employment and what they view to be the ramifications it poses to public agencies, managers, and most importantly, employees. Common reasons for converting classified employees to at-will is “a desire to get rid of specific employees; frustration with costly and time-consuming personnel rules; a strong felt need for increased managerial flexibility; and a desire to meet demands for higher pay by trading off

employment status” (Green et al. 2006, 308). Green and his colleagues argue that although government reform is needed, the state constitution fail to recognize the legal, managerial and political problems at-will employment poses to agencies and public sector top line managers. Exceptions to the at-will system are public policy exception, covenant-of-good-faith, and implied-contract exceptions. These exceptions serve to provide protection to employees against being fired when doing so violates established policy; termination based on bad faith, and protection when an employment contract exists between the employer and employee (Green et al. 2006, 309-313).

Despite these exceptions, the political and managerial consequences outweigh the benefits of at-will employment. Green et al. (2006) argue that this system designed to improve managerial flexibility, efficiency and productivity in government can be utilized as patronage tools to control agencies, managers and employees. More importantly, Green and his colleagues focus on the negative effects at-will employments has on employees in the public sector, and underline the stark differences between the private and public sector. For example, while this tool may be effective in the private sector where employees are motivated by financial gains, the same cannot be said about those in the public sector. Furthermore, research theories concerning the motivation of employees are contradictory to the principles of at-will employment. Managers in public office holding top positions have false conceptions about what motivates employees, which makes job security not an effective motivator. The idea of applying a market system approach by taking away job security serves as a barrier to real productivity, efficiency, and lack of responsiveness” (Green et al. 2006, 316).

Green et al. (2006) incorporate McGregor’s theory X and Y in their analysis. As an alternative to theory X, a management style which views employees in the public sector as lazy,

inefficient, self-centered and resistant to change, Green et al. (2006) offer instead theory Y. The latter suggests a positive approach to employee motivation in lieu of the fear mechanism suggested by theory X. Contrary to theory X, they claim the employees in public agencies are devoted to their work, and factors such as “challenging nature of the work, career ladders, and good colleagues, bring far more job satisfaction” than financial gains (Green et al. 2006, 318). Equally as important is the sense of stability and balance that bring the most motivation to employees instead of the fear of losing their jobs. At-will employment eliminates the capacity of agencies to compete for young talents, as these young talents tend to shy away from public agencies and get closer to the private sector market since it offers better pay. What role does public service motivation play in ensuring that employees have the right attitude towards their job?

### *Public Service Motivation*

In the foregoing analysis, there have been several questions asked, which will be addressed at the end of the study, but at this juncture, the trajectory taken by Green and his colleagues from the previous article, using McGregor’s theory X and Y, has prompted this study to digress a little bit to understand how the word motivation is applied in the public sector. For public officials, there is an obligation to put the public interest paramount in the execution of their duties. The desire to do this effectively is what public service motivation is all about. What propels this action also gauges the relevance and performance (as mentioned earlier in this analysis) of public employees, evaluated by top line managers to determine whether or not employees are being productive or not, and whether they should be dismissed or not. But first, it

should be realized that a happy employee, is a working employee. What do these managers have in place to ensure that public employees are kept motivated? The answer is not farfetched.

You can take a horse to the water, but you cannot force it to drink; it will drink only if it is thirsty, that is the case with people. All humans have wants and needs which cause them to act a certain way or carry out certain actions in order to satisfy those needs. Whether it is to excel on the workshop floor or in the ivory tower they must be motivated to it, either by themselves or through external stimulus.

Motivation is defined as an internal drive that activates behavior and gives it direction (Perry 1997). The performance of a government employee is crucial to the image of the government and the efficiency of government management. Better performance will lead to greater citizen trust in government (Perry and Hondeghem 2008). Additionally, adequate performance yields profitability and efforts to improve the performance of employees hinges on the manager's ability to successfully motivate them. The widely accepted definition of public service motivation (PSM) is described by Perry and Wise (1990, 369) as "an individual's predisposition to respond to motives grounded primarily or uniquely in public institutions and organizations." The term "motivation theory" relates to processes that describe why and how human behavior is activated and directed. It is regarded as one of the most important areas of study in the field of organizational behavior (Perry 1997).

The motivation of public servants has long been a topic of public concern, debate, and scholarly interest. Recent developments give the topic new prominence. The meaning of public service motivation varies across disciplines and fields, but its definition has a common focus on motives and action in the public domain that are intended to do good for others and shape the well-being of society. Public service motivation is construed as referring to individual motives

that are largely, but not exclusively, altruistic and are grounded in public institutions. In fields such as public administration, public management, and political science, public service motivation is used to refer to systems unique to public institutions that energize and direct behavior (Perry and Wise 1990).

### *The Importance of Public Service Motivation*

It is commonly assumed that public sector organizations are more likely to employ individuals whose values and needs are consistent with the public service mission of the organization (Crewson 1997; Perry and Wise 1990; Rainey and Steinbauer 1999). Charged with promoting the general social welfare, as well as the protection of society and its citizens, public organizations often have missions with broader scope and more profound impact than those typically found in the private sector (Crewson 1997). Consequently, the composition of the public workforce is expected to reflect the nature of public sector work by attracting employees who desire opportunities to fulfill higher order needs and altruistic impulses by performing public service. In fact, considerable empirical support exists for the assertion that employee reward preferences coincide with the function served by the sector in which they are employed. Public sector employees have repeatedly been found to place a lower value on financial rewards and a higher value on helping others (public service) than their private sector counterparts (Boyne 2002).

Studies that found similar levels of work motivation among public and private employees suggest that the importance employees place on contributing to the public service mission of their organizations may provide intrinsic rewards that compensate for the low levels of extrinsic rewards commonly associated with public sector work (Rainey 1982). Attempts to

link differences in public sector employee motivation to any specific performance related attitudinal or behavioral consequences however, have produced mixed results. Although Rainey (1982) found no relationship between the importance employees place on public service and their job involvement, Crewson (1997) found that federal employees who prefer service over economic rewards are more committed to the organizations in where they work. Similarly, Naff and Crum (1999) found that employees with high public service values are less likely to leave government employment and more likely to receive better performance evaluations, Alonso and Lewis (2001) found no relationship between public service orientation and performance evaluations or career achievement.

The inconsistency of the empirical findings, however, may be the result of incomplete rather than inaccurate theoretical models, as these studies often do not include any underlying process variables that explain how such differences have an impact on employee work motivation or performance. In fact, previous reviews of the literature have found that the empirical research on sector differences lacks strong theory (Perry 1997; Rainey 1982), and the research investigating the motivation of public employees generally has not done so within the broader framework of psychological process theories of work motivation. Also the 1990 study by Locke and Latham on the public sector employee performance using the goal theory of motivation, proposes a theoretical model that explains the potential effects of the importance of organizational mission on employee work motivation. They found that the importance employees place on the organizational mission enhances their perceived importance their jobs, which, in turn, enhances motivation (Locke and Latham 1990).

### *Goal Theory and Public Service Motivation*

One avenue for investigating the influence of organizational goals on employee performance is to emphasize the role of employee commitment. Although previous research has identified many types of employee commitment, the public sector research has focused primarily on the extent to which employees are committed to the organization, with little attention given to the employee's commitment to performing the work itself. Although it may be more likely that individuals who are committed to the organization will also be committed to achieving the performance objectives designed by the organization, such is not always the case. An individual may be committed to his job or task but not necessarily to his organization and vice versa.

In order to understand employee performance, public sector scholars and organizations must investigate the motivation to work hard and well within the organization, in addition to the motivation to join and stay in the organization. To accomplish this, several public management scholars have suggested the importance of goal theory in understanding the motivational context of public organizations (Perry and Porter 1982). This suggestion is consistent with recent reviews of work motivation theories, which recommend that any model of work motivation should contain the underlying factors that explain how goals affect work motivation. These factors fall into two categories: goal content and goal commitment. Goal content refers to the way that certain characteristics of goals or jobs, such as their difficulty and specificity, influence the goal performance relationship by directing or energizing behavior. Alternatively, goal commitment refers to job attitudes that influence the persistence of goal-related behavior, focusing on whether the individual accepts the goal and is determined to reach it, even if confronted with setbacks or obstacles. Recent empirical work suggests these factors can help us to understand the potential impact of ambiguous, conflicting, and important organizational goals on employee performance

(Perry 1997; Rainey 1982; Wright 2001). Unfortunately, these studies provide only a partial test of goal theory's application in the public sector, either by focusing on goal content over goal commitment (Rainey 1982) or failing to investigate the relationships between goal-related constructs.

Although goal commitment is particularly salient to understanding the effects of organizational mission on public employee work motivation, a more comprehensive model of the influence of these factors is necessary. To that end, this study advances our understanding of work motivation in the public sector by using the conceptual framework of goal theory to investigate the effect of organizational mission valence on employee commitment to assigned performance objectives.

There is a growing recognition of the importance of commitment in understanding employee performance. Goal commitment depicts the extent to which an individual accepts a performance goal and is determined to reach it, even if confronted with setbacks or obstacle. Although research has identified a wide variety of factors that may contribute to goal commitment, two conditions seem particularly important: Individuals are more committed to their performance objectives when they believe those objectives are achievable and will result in important outcomes for themselves or, to the extent they are committed to organizational goals, the organization in which they work (Wright 2007). Together, these two conditions, determine the degree to which individuals are committed to performing their work tasks. Therefore, an understanding of the motivational context requires a discussion of not only each of the conditions that directly influence goal commitment but also how the separate but related contribution task and mission characteristics affect employee motivation. If individuals do not perceive

performance objectives as meaningful or important, they have little reason to strive to achieve them.

This is of particular interest in the work setting, where employees are expected to achieve not their own personal objectives but performance objectives designed by others. In practice, however, there may be little distinction between assigned goals and self-selected goals. There are a number of ways in which organizations can affect employees' perceptions of the importance of their assigned work. For example, Rainey and Steinbauer (1999) suggest that the effectiveness and performance of government agencies may be enhanced by three interrelated levels of intrinsic rewards: task, mission, and public service that are available through the employee's role in the organization. This assertion is consistent with the goal theory of work motivation and its expectation that employees will expend greater effort toward achieving performance goals that they believe will result in important outcomes.

Similar to the concept of task significance, if employees view the organization's mission as important and congruent with their own values, then they are more likely to incorporate organizational goals into their own sense of identity and view their assigned roles in achieving those goals as personally meaningful. This emphasis on the relationship between the importance of job goals and organizational goals may be especially important for public sector organizations (Wright 2001), as they are more likely to employ individuals whose values and needs are consistent with the altruistic or community service nature of the organization's mission or goals. Consistent with this research, goal theory provides an important theoretical framework for investigating the separate but related contributions of task and mission motivation by suggesting that public employees are motivated to achieve their performance objectives because they place

greater importance on their jobs when working for an organization that they believe provides a valuable public service (Wright 2007, 58).

Another way that organizations can make assigned performance goals important to the employee is by providing appropriate rewards for goal attainment. In contrast to intrinsic rewards that are self-administered by the employee for good performance, rewards such as pay, promotion, and recognition granted by others in the organization are extrinsic rewards. Assigning difficult goals, for example, has been found to improve performance merely because such goals are perceived to be associated with more beneficial outcomes or extrinsic rewards than easy goals (Rainey and Steinbauer 1999, 22). Although the type and amount of the reward is important, extrinsic rewards only act as performance incentives when they are contingent on performance. If employees perceive a weak link between performance and extrinsic rewards, the utility of this method for enhancing goal importance is severely limited.

In essence, what the short analysis on public service motivation is doing is to help readers understand that public sector employees are there to serve the needs of others. They need to be highly motivated to retain their selflessness. Line managers that base the relevance of the employees' ability to retain their job on performance must be prepared to support them in whatever way they can intrinsically. Public employees should be able to challenge themselves and accomplish new tasks. They should also have choices of what to do and most importantly they should like their job. The notion that public employees are lazy and ineffective, I believe, is coupled with the fact that motivation has to come from within. As such, if it is a situation where the employee does not like the job, then there is a possibility of being slothful and this would, in the long run, affect those that one is trying to be responsive to (the public). On the other hand if the employee does not see a reason why he should be motivated and nothing is done about it,

then this automatically leads to withdrawal, but because of job security employees do the job grudgingly.

To contrast the ideas of theorists that have been in support of at-will employment, this study offers analysis of Gertz (2008), who sees at-will employment from a different perspective. Gertz is among the few that see the good qualities of at-will employment. She proposes that in the case of employees, especially mid-career employees, have an incentive to believe that they are irreplaceable due to training and recruiting costs. In Gertz's words, employees "only have to perform better than a rookie to keep their jobs" (Gertz 2008, 499). Shirking is hard to detect and monitor, and some decisions are necessarily subjective. Employers need to be able to make these judgments without being second-guessed. "A 'just cause' or 'good faith' requirement would intrude too deeply on employer discretion in this area" (Gertz 2008, 499).

According to Gertz (2008), just because critics like Green et al. 2006, Dannin (2007) and others, can recognize a sticky situation with the policy, does imply that policy makers can reach suitable assumption concerning how the law should react to them. Gertz (2008) believes that job losses may have collective benefits, such as passing employees on to up and coming industries, (Gertz 2008).

Gertz's Study of at-will estimated the direct and indirect costs of adopting the wrongful discharge exceptions. These costs may lead not only to lower wages, but also to higher unemployment because employers may be less willing to hire employees if there are restrictions on firing them (Gertz 2008). Gertz's article emphasizes the need to be competitive in the new global market economy and to keep pace with technological change. To do this end, Gertz (2008) believes employers must be able to hire and fire employees quickly, without delayed legal battles.

At-will employment relies on several fundamental false assumptions that undermine its goal in the public sector. First, it assumes that the public sector can operate like the private sector. This assumption is entirely wrong, because it is well understood that managerial values, legal context, and funding differ between the two sectors. The assumption that at-will employment will work well in the public sector simply because it does in the private is unfounded. The sentiment regarding at-will system in the private sector is negated by the existence of better compensation. In the public sector, however, this trade off is non-existent. The private sector's use of the at-will system could well be tolerated because job security is replaced by better compensation. The same cannot be said about the public sector. Government salaries still lag behind the private sector, and in the midst of this economic recession, many agencies result to furloughs and lay-offs to make up for budget shortfalls. In essence, government has no leverage when claiming that job security is replaced by better compensation.

Employment at will is defended primarily on the basis of financial system theories. The employer has invested in hiring and training and has profit making interest in keeping productive employees and not gaining a standing repute for unfair treatment of employees. For this reason, most employers create a standard of not firing workers without cause; they think twice even to fire average workers. Uninformed discharges are costly and therefore infrequent. If lower level supervisors discharge employees arbitrarily, management eventually will discover these abuses and correct them, and will be better at handling and correcting these abuses than outside decision makers would be. Most employees prefer higher wages to job security (which would increase employers' costs and reduce wages) and that is why at-will employment dominates.

At-will employment has been misapprehended on several fundamental assumptions that challenge its goal in the public sector. The sentiment regarding at-will system in the private

sector is voided by the existence of better reward. In the public sector, however, this trade off is non-existent. The private sector's use of the at-will system is different from the public sector because job security is replaced with better compensation. Government salaries still do not compare well with private sector, and in the midst of this economic recession, many agencies use unpaid leave and lay-offs to make up for budget shortfalls. In essence, government has no influence when claiming that job security is replaced by better compensation.

## **Methodology**

This research draws from a qualitative perspective to provide a profound analysis of at-will employment in the public sector. Using the Georgia reform as a descriptive case study, this study makes use of a plethora of archival documents and academic literature: to include, government reports and publications, scholarly journals, books, and newspaper articles. The study builds on an analysis of the civil service reform in Georgia. This analysis is carried out based on assessment and empirical studies published by scholars in the field. At-will employment is present in most states in the United States; however the degree of its implementation varies from state to state. However, Georgia is one of the states that has gone over and beyond in executing the tenets of at-will employment. Findings can be compared to that of Florida and Texas, but this study, because of time constraint does not extend the research to other jurisdictions, but rather focuses on assessing at-will employment in the State of Georgia.

## **Findings**

The Georgia reform sought to improve on productivity of the state's workforce. Although Georgia had just one reform, it was split into twofold event. The first event was the

GeorgiaGain, which focused predominantly on the pay for performance system. This system was to variably recompense various levels of employee performance. This merit based system was to proffer an efficient personnel system where employers are able to reward productive workers in their own terms. The second event was the at-will employment system, which was aimed towards achieving higher levels of bureaucratic responsiveness to executive leadership and raise civil servants' productivity by streamlining personnel management procedures and eliminating job protections for all employees selected or promoted after July 1, 1996 (Sanders 2004).

There is no misgiving that employment is one of the most essential facets in the life of any individual, given that it is a source of economic support and, as importantly, a contributing function in society. A person's employment is a vital part of his or her personality, sense of worth and emotional happiness. The loss of one's job is suffered not only by the individual worker, but by members of his or her family and the community. Job termination is mostly painful for those whose employment tenders the only means of income for the family. If the termination is the result of factors other than an employee's conduct or performance, the loss can be devastating. The loss is more pungent if an employee recognizes it was not due not to any wrongdoing on his or her part, but rather it was due to unstipulated reasons that have nothing to do with performance, stance, conduct, or economic requirement.

Not surprisingly, however, deliberations about the degree to which law should meddle with employment relationship endure as postulated in previous studies earlier discussed. Nonetheless, the Georgia employment law is guided by the at-will employment principle, which is designed to make certain that either the employer or employee, in a labor agreement of imprecise length may renounce the contract at any time, for any reason, without any prior notification. Under the at-will provision, it does not matter what the personal intention of one's

manager may be. The firing of a good worker, who has become the object of an unreasonable feeling of resentment, is protected under the at-will theory. According to the doctrine, as long as the dismissal does not breach state or federal labor or civil rights legislation, an employee can be fired for any reason whatsoever (Green et al. 2006, 314). In addition, by permitting discharges without explanation, the at-will rule may provide employers with a protection against claims of prejudiced discharge, leaving insufficient defense for workers.

The major goal of state reform was to improve the fairness of workforce, yet an overwhelming majority of employees see no improvement in bureaucratic production, motivation or responsiveness to the public since the advent of the program. For instance, in a 2006 study by Kellough and Nigro on Georgia public service classified and unclassified employees (see Appendix A, Table 1), employees' opinion on the state's use of pay for performance. For example, after four years of experience with the new system, only 28 percent of the workforce agreed that GeorgiaGain was a good way to inspire and encourage employees, and only 21 percent agreed that their pay was based on how well they did their jobs (Kellough and Nigro 2006). These findings are notably surprising because the state had invested heavily in designing and implementing its pay-for-performance system. More than 68 percent of all state employees thought favoritism was a problem pertaining to the distribution of pay raises in their agencies (see Appendix A, Table 1). A majority of respondents also pointed out that there was too much stress on money as an incentive as opposed to other incentives and that there was a lot of conflict among employees over annual pay increases (Kellough and Nigro 2006). Clearly, these are not the kinds of perceptions one would hope after ten years of the implementation of a much hyped pay for performance program.

The equity of the at-will program is seen in the light of certain deficiencies, such as the criteria for judging employee performance being inaccurate and biased. There is a good possibility that employers apply some atom of favoritism to evaluating employees' performance. This topic is important in the inclusion of the development and future of public administrators and public service delivery personnel. While the concept of equity does denote fairness and equal treatment, this view of pay for performance which is a subsidiary of GeorgiaGain does not clearly and fully address the concept in the practice of public administration. Georgia civil service employees are aware that their employment is not a life entitlement, but conditional on continued performance and relevance (West 2002). The study of Condrey in 2002 also argues for this weakness. Favoritism is a factor that, by human nature, would creep into the hiring process. Even in public service today, there are likely situations where an employee may be fired, just because his/her employer holds a grudge towards them. This type of incidence is roofed under at-will employment umbrella and is not an issue that can be debated. Office politics on performance ratings and downgraded performance ratings due to budgetary constraints are some of the problems that the pay-for-performance system has encountered (Condrey 2002).

To bolster the issue with performance ratings, Kellough and Nigro (2006) in their study on classified and unclassified state personnel in Georgia sought to gauge whether different perceptions of the at-will status exist between employees occupying classified and those occupying unclassified positions (see Appendix B, Table 2). The study shows that when it came to performance evaluation, employees signified that unclassified employees express less doubt than their classified counterparts. Significant differences in the responses of unclassified and classified employees are found on all but two of the items listed. For example, approximately 73 percent of the unclassified workers agreed with the statement, "Performance appraisal

discussions are useful in helping me improve my performance,” but less than 59 percent of the classified employees expressed such sentiment.

This only goes to show that the perceptions of unclassified workers are different from those of classified workers, their performance is rated differently and the classified seem to benefit more, as they are not affected by the at-will employment rule. This is also not equitable, regardless of job tenure or experience; to know that an unclassified employee can occupy the same position as a classified employee, but the job protections that they have are different.

## **Recommendations**

In public administration, the success of any policy issue, such as at-will employment, should include equity, fairness, and equal treatment in public service delivery and public policy implementation. The value of public service responsiveness should abide by the principles of public administration. The Georgia reform, particularly, the at-will employment has not posed to be neither equitable nor economical. This is evident from the analysis of this case study. Now effectiveness and efficiency are two terms that may mean different things to different people. What may be efficient to A may not be efficient for B, and the same goes for effectiveness also. This is why scholars are able to criticize or support the notion of at-will employment based on studies that they have carried out and their practical perspectives. However, equity in public service is of great importance in responding to the public interest. The question asked earlier on how to measure equity against efficiency, applies the most to the public sector, where precedence is given to efficiency over equity. Since the Georgia reform sought to present a more effective workforce, it failed to address the three other important principles that apply to policy matters in public administration. Hence, the weakness of the reform.

Evidently, the question of whether civil service protections should be removed for the sake of public employees is an important policy issue. In general, at-will bureaucracy could produce a workforce that is more compliant and receptive to administrative changes and innovations that grant increased authority to managers and political executives. Implications for managerial authority and perhaps, ultimately, for the objectivity of the civil service are clear, but there is little suggestion that the work of the state will be better performed by at-will employees. Bearing in mind also that the provision of due process rights for employees may not be the burden or drag on public organizations that some reform advocates seem to believe it is. Due process rights exist to protect employees from wrongful or unfair discharge. As such, those rights may operate to promote a greater sense of justice within organizations and a culture of trust between employees and their employers (Kellough and Nigro 2006).

The lesson learned so far, is that fear of libel suits prompts employers to give neutral job references, which, in turn, causes them to pass bad employees from one to another. Similarly, employers' fear of a new basis for a lawsuit will deter them to the detriment of all from firing bad or misfit employees. Moreover, the difficulty and cost of firing problem employees tends to make employers excessively cautious in hiring people in the first place; another unintended negative consequence of laws that are overly protective of workers' jobs.

At-will principle should favor employees just as it does employers. Employees can acquire training, knowledge and skills, and develop relationships with one employer, then freely choose to leave and take these supple assets with them. Since we live in an era of increasing global competition, any new restrictions by employers on their employees will not help to maintain U.S. competitiveness. The value of the employment at-will doctrine is not to protect unprincipled employers engaged in unpredictable action, but rather to protect decent employers

from having every employment decision go on into the current litigation chaos. The exquisiteness of the at-will rule is that, when combined with the practice of treating employees fairly and consistently, employers are able to effectively close gaps in employee performance, attendance or conduct. They can do so by communicating to employees, orally and in writing, what is necessary so that employees may make the desired changes. If employees are unable or unwilling to do so, the management can then make the change in employment status with fairness and consistency, while respecting the employees' dignity, and without the intrusion of the legal system.

Although the basis of this research focused on the State of Georgia, the study can be useful to public service employees in other states as well. For public employees and potential public service workers in other states, it is important to know whether an employer you choose to work for has an at-will employment policy. It is always best to know what your protections and limitations in an employment arrangement are before you join them, not after.

## **Conclusion**

This study raises uncertainty that the reforms initiated by the State of Georgia in 1996 were successful in developing more effective personnel processes or more motivated public employees. Since the premise of motivation or organizational change may not be adequate, a careful consideration must be given to what it takes to build a productive and devoted public workforce.

At a minimum, the at-will doctrine bolsters a system of employment regulation that brings about inequalities and should therefore be abandoned, especially in Georgia and other states, where there are stringent rules on the doctrine. A notice option may be applied in its place,

thereby promoting a better balance between the relevant social interests such as job security, productivity, and employer independence. At-will rule should be substituted by legislation that requires an employer to provide, at the least, some sort of notice before discharge.

The assumption underlying the creation of an at-will workforce was that it would produce public employees who could be more effectively managed. The absence of protections against subjective or otherwise undue termination could, even so, have such a terrifying outcome on policy disputes or dialogue within public agencies. While the public sector is correct in seeking new and innovative ways to improve efficiency in government, at-will system is not the answer. The strength of the system lies in the ability to get rid of unproductive workers, but the underlying principles that ensue have weakened this strength. The public sector must first seek new managerial approach that fits its model, and develop a model different from the one used in the private sector and responsive to its own problems. The assumption that government can be operated and managed like the private sector has to be set aside. In addition, public managers must identify what motivates different kinds of employees and use that as a model to meet efficiency and productivity.

A second approach and perhaps the most important is the need for better compensation comparable to those in the private sector. Public sector salaries lag behind those of the private sector and in order to keep and retain talented individuals, salaries must be attractive enough. Private sector jobs offer attractive perquisites that attract the best employees including some from the public sector. Although several theories have been offered suggesting the most effective motivating factors, I believe that money is the most important.

A third approach deals with restoring the sense of mutual obligation between employees and employer. Supervisors and line managers alone cannot meet organizational goals. They

need the talent, skills, and commitment of employees at the lower level. This is why the restoration of the sense of obligation is necessary to make government more effective and responsive. Since employees must be more valued and appreciated in the workplace, the at-will system which leaves them at the mercy of their employer is not the way to fulfill that sense of mutual obligation.

The study has, to a considerable extent, assessed the strengths, weaknesses, opportunities, and threats that the at-will employment system may present. The study also relates the policy issue of at-will to the four pillars of public administration: efficiency, effectiveness, economy, and equity. The justification for making this lopsided issue more representative of a majority of public service employees is postulated. There are a few questions that the author has asked that this study has not been able to particularly address. In the view of this, further research on the relationship between civil service reform, perceptions of integrity and fairness within public organizations, and ensuing employee performance could be conducted.

## References

- Alonso, Pablo, and Gregory B. Lewis. 2001. Public service motivation and job performance: Evidence from the federal sector. *American Review of Public Administration* 31 (4): 363-380.
- Ballam, Deborah A. 2000. Employment at-will: The Impending death of a doctrine. *American Business Law Journal* 37 (4): 653-687.
- Battaglio, Paul. 2010. Public service reform and motivation: Evidence from an employment at-will environment. *Review of Public Personnel Administration* 30 (3): 341-363.
- Battaglio, Paul, and Stephen E. Condrey. 2006. Civil service reform: Examining state and local cases. *Review of Public Personnel Administration* 26 (2): 118-138.
- Behn, Robert D. 1998. What right do public managers have to lead? *Public Administration Review* 58 (3): 209-224.
- Boyne, George A. 2002. Public and private management; what's the difference? *Journal of Management Studies* 39 (1): 97-122.
- Brook, D. A., and C. L. King. 2008. Federal personnel management reform: From civil service reform act to national security reforms. *Review of Public Personnel Administration*, 28 (3): 205-221.
- Chemerinsky, Erwin. 1992. The Supreme Court and the Fourteenth Amendment: The unfulfilled promise. *Loyola of Los Angeles Law Review* 25 (738): 1143-1158.
- Condrey, Stephen. 2002. Reinventing State Civil Service Systems: The Georgia experience. *Review of Public Personnel Administration* 22 (2): 114-124.
- Condrey, Stephen. E., and Paul Battaglio. 2007. A return to spoils? Revisiting radical civil service reform in the United States. *Public Administration Review* 67 (3): 424-436.

- Crewson, Philip E. 1997. Public service motivation: Building empirical evidence of incidence and effect. *Journal of Public Administration Research and Theory* 7 (4): 499-518.
- Dannin, Ellen. 2007. Why at-will employment is bad for employers and just cause is good for them. *Labor Law Journal* 58 (1): 5-16.
- Duffy, Dennis. 1994. Intentional infliction of emotional distress and employment at will: The case against tortification of labor and employment law, 74 B.U. L. Rev. 387.  
<http://www.law.virginia.edu/pells/employment%20law%204.nsf/c1056066995a9e1d8525663000788783/6aa19a28a29445a585256618006a0ffb?OpenDocument> (accessed November 24, 2010).
- Facer, Rex L. 1998. Reinventing public administration: Reform in the Georgia civil service. *Public Administration Quarterly* 22 (1): 58-72.
- Georgia Merit System. 2001. State employees move toward market parity, bonuses for achievement with PerformancePLUS. *The Georgia Statement* 4 (1): 1-8.
- Gertz, Sally C. 2008. At-will employment: Origins, applications, exceptions and Expansions in the Public Service. *International Journal of Public Administration* 31 (5): 489-514.
- Green, Richard, Robert Forbis, Anne Golden, Stephen Nelson, and Jennifer Robinson. 2006. On the ethics of at-will employment in the public sector. *Public Integrity* 8 (4): 305-327.
- Hays, Steven W., and Jessica Sowa. 2006. A broader look at the accountability movement: Some grim realities of state civil service systems. *Review of Public Personnel Administration* 26 (2): 102-117.
- Kalleberg, Arne. 2000. Nonstandard employment relations: Part-time, temporary and contract work. *Annual Review of Sociology* 26: 341-365.
- Kellough, Edward, and Lloyd Nigro. 2002. Pay for performance in Georgia state

- government: Employee perspectives on GeorgiaGain after 5 years. *Review of Public Personnel Administration* 22 (2): 146–66.
- Kellough, Edward, and Nigro Lloyd. 2006. Dramatic reform in the public service: At-will employment and the creation of a new public workforce. *Journal of Public Administration Research and Theory* 16 (3): 447-466.
- Kellough, Edward, and Sally Selden. 1997. Pay for performance systems in state government: Perceptions of state agency personnel managers. *Review of Personnel Administration* 17 (1): 5-21.
- Levin, J. J., and C. A. Gebo. 1997. Privatization of governmental services: The wave of the future. Negotiations and disputes. Available at <http://pfgm.com/newsletters/negotitationsanddisputes> (accessed on November 24, 2010).
- Locke, Edwin A., and Gary P. Latham. 1990. A theory of goal setting and task performance. Englewood Cliffs, NJ: Prentice-Hall 10 (2):365-397.
- Markey, Ray. 2002. Explaining Union Mobilization in the 1880s and Early 1900s *Labor History* 83:19-42.
- Monaghan, Henry. 1986. State law wrongs, state law remedies, and the Fourteenth Amendment. *Columbia Law Review* 86 (5): 979-999.
- Muhl, Charles. 2001. The employment-at-will doctrine: Three major exceptions *Monthly Labor Review* 124 (1):3-11.  
<http://www.govexec.com/dailyfed/1002/103102b1.htm> (accessed October 23, 2010).
- Naff, Katherine C., and John Crum. 1999. Working for America: Does public service motivation make a difference? *Review of Public Personnel Administration* 19 (4): 5-16.
- Nigro, Lloyd, and Edward Kellough. 2000. Civil service reform in Georgia: Going to the edge?

- Review of Public Personnel Administration* 20 (4): 41–54.
- Perry, James L. 1997. Antecedents of public service motivation. *Journal of Public Administration Research and Theory* 7 (2): 181-197.
- Perry, James, and Annie Hondeghem. 2008. Building theory and empirical evidence about public service motivation. *International Public Management Journal* 11(1):3-12.
- Perry, James L., and Lois Recascino Wise. 1990. The motivational bases of public service. *Public Administration Review* 50 (3): 367-73.
- Perry, James L., and Lyman Porter W. 1982. Factors affecting the context for motivation in public organizations. *Academy of Management Review* 7 (1): 89-98.
- Pfiffner, James P, and Brook Douglas A. 2000. The future of merit: Twenty years after the civil service *reform act*. Baltimore, MD: *Johns Hopkins University Press*. <http://slg.sagepub.com/content/36/1/20.extract> (accessed November 24, 2010).
- Rainey, Hal G. 1982. Reward references among public and private managers: In search of the service ethic. *American Review of Public Administration* 16 (4): 288-302.
- Rainey, Hal G., and Paula Steinbauer. 1999. Galloping elephants: Developing elements of a theory of effective government organizations. *Journal of Public Administration Research and Theory* 9 (1): 1-32.
- Rubin, Peter. 2003. Square Pegs and round Holes: Substantive due process, procedural Due Process and the Bill of Rights. *Columbia Law Review* 103 (4): 833-892.
- Selden, Sally Coleman. 2006. The impact of discipline on the use and rapidity of dismissal in state governments. *Review of Public Personnel Administration* 26 (4): 335-355.
- Sanders, Robert M. 2004. GeorgiaGain or GeorgiaLoss? The great experiment in state civil

- service reform. *Public Personnel Management* 33 (2): 151-164.
- State of Georgia. 1996. Public officers and employees personnel administration; veterans; unclassified service defined to include all positions filled by new hires; classified service employees to remain in classified service on certain conditions. No. 816 (Senate Bill 635). General acts and resolutions 1: 684–691.
- [http://www.legis.ga.gov/legis/2009\\_10/search/hb635.htm](http://www.legis.ga.gov/legis/2009_10/search/hb635.htm) (accessed November 24, 2010).
- Walters, Jonathan. 1997. Who needs civil service? *Governing* 10 (11): 17-21.
- West, Jonathan. 2002. Georgia on the mind of radical civil service reformers  
*Review of Public Personnel Administration* 22 (2): 79-93.
- William, Brennan, J. 1977. State constitutions and the protection of individual rights.  
*Harvard Law Review* 90 (3): 489-504.
- William, van Alstyne W. 1968. The Demise of the Right-Privilege Distinction in Constitutional Law. *Harvard Law Review* 81 (7): 1439-1464.
- Wright, Bradley E. 2001. Public sector work motivation: Review of current literature and a revised conceptual model. *Journal of Public Administration Research and Theory* 11 (4): 559-586.
- Wright, Bradley. 2007. Service and Motivation: Does Mission Matter?  
*Public Administration Review* 67 (1): 54-64.

## Appendices

### Appendix A

Table 1

Classified and Unclassified Employee Perceptions of the Pay-for-Performance System  
(percentage agreeing with the survey item)

Statement	Classified	Unclassified	Employees
1. The pay-for-performance system set up by <i>GeorgiaGain</i> is a good way to motivate employees. ( <i>N</i> = 1,885; mean = 2.53; SD = 1.566)	24.5	36.2***	28.4
2. There has been too much stress on money as an incentive and not enough on other sources of motivation. ( <i>N</i> = 1,850; mean = 3.50; SD = 1.666)	55.6	45.1***	52.1
3. My pay is based on how well I do my job. ( <i>N</i> = 1,890; mean = 2.35; SD = 1.429)	20.4	22.3	21.0
4. There is a lot of conflict between employees over annual pay raises in my work group. ( <i>N</i> = 1,876; mean = 2.35; SD = 1.632)	53.7	51.7	53.1
5. Favoritism is a problem for the pay-for-performance program in my agency. ( <i>N</i> = 1,874; mean = 4.27; SD = 1.683)	72.1	61.2***	68.5
<p><i>Note:</i> Significance level refers to a two-tailed test of the difference of means between classified and unclassified employees. Responses to survey items were coded as follows: 1 = strongly disagree, 2 = disagree, 3 = slightly disagree, 4 = slightly agree, 5 = agree, 6 = strongly agree. The means and standard deviations (SD) reported reflect variation among individual respondents on these response categories. The table reports the "percentage agreeing" with each survey item, which is the sum of the percentage who "strongly agree," "agree," and "slightly agree."</p> <ul style="list-style-type: none"> <li>• *** <math>p &lt; .001</math>.</li> </ul>			

Source: Kellough and Nigro 2006, 455.

## Appendix B

Table 2

Classified and Unclassified Employee Perceptions of the Performance Evaluation Process  
(percentage agreeing with survey item)

Statement	Classified	Unclassified	Employees
1. My immediate supervisor works with me to set performance goals and targets. ( <i>N</i> = 1,905; mean = 3.48; SD = 1.648)	50.3	58.3***	53.0
2. On my job I know what is expected of me. ( <i>N</i> = 1,898; mean = 4.75; SD = 1.193)	86.4	87.2***	86.7
3. My supervisor is able to accurately determine different levels of employee performance. <i>N</i> = 1,897; mean = 3.57; SD = 1.601)	51.6	61.3***	54.8
4. Performance appraisal discussions are useful in helping me improve my performance. ( <i>N</i> = 1,892; mean = 3.83; SD = 1.520)	58.6	72.9***	63.4
5. I understand how my supervisor evaluates my performance. ( <i>N</i> = 1,895; mean = 3.74; SD = 1.551)	59.4	66.7***	61.8
6. My supervisor's evaluation provides feedback that often helps me improve my job performance. ( <i>N</i> = 1,896; mean = 3.44; SD = 1.544)	48.4	59.5***	52.1
7. Performance Management Forms (PMFs) are useful because they can be used to identify real performance objectives for my job. ( <i>N</i> = 1,875; mean = 3.41; SD = 1.514)	48.8	60.8***	52.8
8. I believe my supervisor rated my performance as “exceeded” or “far exceeded” expectations, but that rating was changed to “met expectations” by higher management due to budgetary constraints. ( <i>N</i> = 1,817; mean = 3.78; SD = 1.840)	54.7	54.4	54.6
9. Office politics has more to do with performance ratings than actual performance on the job. ( <i>N</i> = 1,860; mean = 4.51; SD = 1.546)	77.8	71.4**	75.7
10. Performance ratings of better than “met expectations” are rotated among employees who deserve meaningful pay raises. ( <i>N</i> = 1,789; mean = 2.92; SD = 1.640)	31.8	37.3**	33.6
11. I believe that management has imposed “quotas” or limits on the number of performance ratings above “met	87.3	82.6**	85.8

expectations.” ( <i>N</i> = 1,838; mean = 4.98; SD = 1.393)			
12. My most recent performance rating accurately reflected my performance. ( <i>N</i> = 1,873; mean = 3.37; SD = 1.704)	45.8	55.5***	49.0
13. Performance appraisals in my work unit are conducted fairly. ( <i>N</i> = 1,859; mean = 3.31; SD = 1.613)	46.0	57.7***	49.8
14. My supervisor really doesn't know enough about what I am doing to evaluate my performance accurately. ( <i>N</i> = 1,896; mean = 3.30; SD = 1.704)	46.6	41.2***	44.8
<ul style="list-style-type: none"> <li>• <i>Note:</i> Significance level refers to a two-tailed test of the difference of means between classified and unclassified employees. Responses to survey items were coded as follows: 1 = strongly disagree, 2 = disagree, 3 = slightly disagree, 4 = slightly agree, 5 = agree, 6 = strongly agree. The means and standard deviations (SD) reported reflect variation among individual respondents on these response categories. The table reports the “percentage agreeing” with each survey item, which is the sum of the percentage who “strongly agree,” “agree,” and “slightly agree.”</li> <li>• ** <math>p &lt; .01</math>;</li> <li>• *** <math>p &lt; .001</math></li> </ul>			

Source: Kellough and Nigro 2006, 454.