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The Report of the
**Commission
of Inquiry
into the
Public Service
and
Public Sector**

**Volume 1
FINAL REPORT**

**THE PUBLIC SERVICE
IN BRITISH COLUMBIA**

June 1993

Judi Korbin, Commissioner

The
Province
of
British
Columbia



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June 11, 1993

Honourable Glen Clark
Minister of Finance and Corporate Relations
Rm. 152, Parliament Buildings
Victoria, BC
V8V 1X4

Dear Minister Clark:

As Commissioner of the Inquiry into the Public Service and Public Sector, I respectfully submit Volume 1 of my final report, 'The Public Service in British Columbia'.

Volume 2 of the final report, 'The Public Sector in British Columbia', is nearing completion and I expect to transmit it to government in the near future.

BC's public service employs almost 40,000 public servants who make a vital contribution to the well being of all British Columbians. I have found a high level of commitment to the public welfare among public service employees at every level. It is the objective of this report to enable those employees to improve the effectiveness of the public service.

In the course of my review, I have also identified significant problems with the current administration of the public service. This report contains recommendations to allow government to address these problems, including a draft, revised Public Service Act. It is my conviction that these recommendations, undertaken in the spirit of a new statutory framework, are in the interests of the public service and the people it serves.

Yours truly,

Judi Korbin
Commissioner

Peter BurtonCommission Counsel

PROJECT DIRECTORS

Stuart Lamb
Jan Mears
Elaine Murray
Bob Whitelaw

Nancy GlassLibrarian
Sarah LevineResearch Officer
Irma MattesAdministrative Director

ADMINISTRATIVE STAFF

Carol Fleming
Letty Regis
Diana Seehagen
Tina Yano

The commission had the benefit of advice from a volunteer Advisory Committee, consisting of the following individuals:

Wendy DevineHarris & Company
George FordOffice of the Premier
Ken GeorgettiBC Federation of Labour
Miriam GropperMcTaggart Ellis & Company
Jim MatkinDavis & Company
Vince ReadyArbitrator/Mediator
Lynn Smith, Q.C.University of BC

The Advisory Committee members had the opportunity to review the report and made suggestions and comments. However, the report does not purport to reflect a consensus of their views nor does it necessarily reflect views of any individual member of the Advisory Committee.

EDITOR

Geoff Holter

The commission also had the benefit of assistance from a volunteer editor,

Kelley Korbin-McGregor

TERMS OF REFERENCE

1. To inquire into and report on ways to enhance
 - (a) the delivery of public services through an independent professional public service, and
 - (b) the personnel and labour relations environment within which operate those bodies created, financed or maintained by the Provincial government for public purposes.
2. To review the delivery of personnel and labour relations services relating to the recruitment, hiring and promotion of employees in the public service.
3. To review policies and procedures within the public service relating to the contracting for services outside the public service.
4. To review current structures and practices for the public service relating to collective bargaining, dispute resolution and exclusion from collective bargaining units under the *Public Service Labour Relations Act* and the *Industrial Relations Act*.
5. To recommend the most cost efficient and effective personnel policies and services for the public service and bodies described in section 1(b).
6. To recommend the most appropriate role, if any, for government to
 - (a) rationalize compensation levels,
 - (b) define collective bargaining structures,
 - (c) standardize employee benefits, and
 - (d) collect, analyze and distribute information concerning the cost of services by employees or through contracts described in section 3 of these Terms of Reference;as these relate to bodies described in section 1(b) or the public service.

THE PUBLIC SERVICE IN BC

Contents

INTRODUCTION.....	1
The Public Service in BC.....	1
The Commission's Review of the Public Service.....	3
Historical Context.....	4
Pre-1973.....	4
Introduction of Collective Bargaining.....	4
Negotiation of Merit System.....	6
Decentralization of Control.....	6
Privatization.....	8
Description of the Direct Public Service Today.....	9
HUMAN RESOURCE MANAGEMENT IN THE PUBLIC SERVICE.....	11
Project Overview.....	11
Commission Process.....	11
Issues Identified.....	12
The Merit Principle.....	12
Staffing and Recruitment.....	15
Advertising Vacancies.....	20
Selection Standards and Techniques.....	23
The Appeals System.....	23
The Exempt Job Classification System.....	24
Training and Employee Development.....	25
Employment Equity in the Public Service.....	25
The Management/Exempt Group.....	26
Relations Between the Government and Its Unions.....	27
Improving Work Systems & Organizational Design.....	28

MANAGEMENT OF HUMAN RESOURCES IN THE PUBLIC SERVICE.....	29
The Purpose of Human Resource Management.....	29
The Principles of Human Resource Management.....	29
From Principle to Strategy.....	30
The Role of a Central Human Resource Agency.....	31
Responsibilities of the New Agency.....	32
Strategic Human Resources.....	32
Corporate Services.....	32
Collective Bargaining.....	33
Designing and Staffing the New Central Human Resource Agency.....	33
Human Resource Information Systems.....	35
THE PUBLIC SERVICE ACT.....	37
Recommendations.....	38
CONTRACTING IN THE PUBLIC SERVICE.....	43
Introduction.....	43
The Shadow Work Force.....	44
Project Overview.....	44
Description of the Contracting Issues.....	44
Commission Process.....	44
Commission Findings.....	46
The Systems Contracting Workforce.....	48
Recommendations.....	49
Commercial Consultant Contracting.....	50
Project Overview.....	50
Issues Arising From Commercial and Consultant Contracting by Government.....	50
Commission Process.....	52
Commission Findings.....	52
Case Studies.....	53
Recommendations.....	55
PUBLIC SERVICE LABOUR RELATIONS ACT.....	59
Project Overview.....	59
Description - The Public Service Labour Relations Act.....	59
Commission Process.....	60
Commission Findings.....	61
Exclusions Under Section 1(1).....	61
Definition of Bargaining Units.....	62
Recommendations.....	62
APPENDICES	

INTRODUCTION

On March 6, 1992, the government of the Province of British Columbia established the Commission of Inquiry into the Public Service and Public Sector. Judi Korbin was named as the sole commissioner under Part II of the Inquiry Act and was directed to report to the provincial cabinet through the Minister of Finance and Corporate Relations, the Honourable Glen Clark.

The commission's mandate was deliberately broad in scope, encompassing all areas of human resource management in the public service and the public sectors in British Columbia. The commission's task was outlined by the Premier on March 6, 1992, when he said:

In these tough economic times, we must tackle the issues of spending waste and make sure we make the most efficient use of government resources. Ms. Korbin's commission will provide a framework for restoring a better system of checks and balances

The commission divided its mandate into two broad areas - the public service and the public sector. Each of these areas was subdivided into a number of projects, and the commissioner had the support of the commission staff and a volunteer advisory committee in completing those projects. This first volume of the commission's final report is called, 'The Public Service in British Columbia'. Volume 2, 'The Public Sector in British Columbia', will be finished in the near future and presented to government upon completion.

Human resources are the most costly component in the delivery of services to the public, consuming some \$10.9 billion as compensation costs - which represents 60 per cent of the government's annual budget of \$19 billion. The commission's challenge was to recommend to government ways to continue to provide an acceptable level of services to the public without unduly burdening the taxpayers.

The Public Service in BC

For the purposes of the commission's work, the public service includes those who work directly for the government of BC and those who provide services to government under commercial, consulting, and information systems contracts.

The public service is composed of the 18 ministries and a number of other agencies of government that provide services to the public. Approximately 40,000 employees work in the public service. The government exerts direct control on compensation expenditures in the public service and these are projected to amount to \$1.5 billion or 8 per cent of the total 1993-1994 budget. BC's public service is highly unionized and issues relating to employer/employee relations in government inevitably affect government's relations with the unions representing its employees.

There are two types of employment relationships for public service employees. Employees are either direct employees of government through the public service, or individuals and organizations performing services for government under contract. Employees who have contractual relations with the government can be: personal service contractors, contractors who provide temporary and clerical help, systems contractors, or commercial and consultant contractors. There are approximately 9,000 consulting and commercial contracts in any year employing an unknown number of individuals who, it can be said, work indirectly for the provincial government.

The focus of the commission's work in the public service was to identify means to allow government to be a leader in service provision and human resource management. The commission consulted widely with public service employees, managers, unions, deputy ministers and government generally, about the demands placed upon the public service and the nature of the human resources required to meet those demands. In its work, the commission found that there was consensus on four principles. The four principles are as follows:

1. accountability

- in order to create a well functioning human resource management system, organizations, institutions and individuals with authority and responsibility must be accountable for the decisions they make
- authority for decision making should be located where accountability for the decision will rest

2. coordination

- a decentralized system of service delivery requires coordination of activities to ensure that consistency is achieved in the treatment of similar activities

3. effective management of human resources

- delivery of quality services to the public requires effective human resource management to identify and eliminate duplication and inefficiencies and to ensure that employees have the opportunity to make effective contributions to government operations

4. balancing employer/employee and union/management interests

- effective delivery of public services demands that representatives of management, labour, employers and employees in the public service strive for cooperation, respect and professionalism in their relationships.

The commission relied upon these four principles in conducting its comprehensive analysis of current public service human resource policies and practices, and in making its recommendations for a new framework for human resource management. Volume 1 of its final report contains findings and recommendations directed toward a renewal and revitalization of the public service. These are based on a proposal for a new Public Service Act which would be the framework for this renewal. The commission did not find any need to propose modifications to the Public Service Labour Relations Act at this time.

The Commission's Review of the Public Service

The commission was asked by the government:

- to inquire into and report on ways to enhance the delivery of public services through an independent professional public service
- to review the delivery of personnel and labour relations services relating to the recruitment, hiring and promotion of employees in the public service
- to review policies and procedures within the public service relating to the contracting for services outside the public service
- to review current structures and practices for the public service relating to collective bargaining, dispute resolution and exclusion from collective bargaining units under the Public Service Labour Relations Act (PSLRA) and the Industrial Relations Act (now the Labour Relations Code)
- to recommend the most cost efficient and effective personnel policies and services for the public service.

The commission divided its review into three areas:

1. a review of human resource management in the public service
2. a review of contracting in the public service
3. a review of the PSLRA

The contracting section was in turn divided into two separate topics:

- the shadow work force
- commercial and consultant contractors.

During the course of its review of the public service, the commission was asked to play a facilitating/adjudicating role in four specific disputes within the public service. These concerned: Crown Counsel (conversion to employment status), BC Nurses' Union (BCNU) and Union of Psychiatric Nurses (UPN) classification disputes, a resolution to the employment status of nurses in certain correctional facilities, and an issue regarding rights to challenge exclusions under the PSLRA. In all cases, the commission worked with the parties to reach an acceptable conclusion, or adjudicated a result.

Historical Context

In order to place current human resource issues in their proper context, a brief history of the events that shaped personnel management over the past 20 years in the BC public service is provided.

Personnel matters of particular concern to government included ensuring that selection of employees was built on fair and impartial processes, that redress systems were in place and working well, and employees were trained.

Previous governments have identified these issues and have attempted to address them in various ways. Despite periodic reviews into public service personnel management practices, the government is still grappling with many of the same issues today.

Pre-1973

Prior to 1973 public service employees in British Columbia had no collective bargaining rights. Personnel management was almost entirely centralized in the Civil Service Commission (CSC), an independent agency. The BC Government Employees' Union (BCGEU), (as it is now called), has existed since 1919, but was not recognized as the bargaining agent for public service employees until the passage of the PSLRA in 1974.

Before that time, there was a 'consultative' practice in place. Discussions were held between the CSC and the BCGEU about compensation and terms and conditions of employment. The CSC then made recommendations to government, which unilaterally imposed whatever conditions it saw fit.

The CSC centrally controlled recruitment, selection, promotion, training, classification, ministry organization, and other human resource management functions. Deputy ministers had limited delegated authority in order to make temporary appointments, but that was constrained by the strict 'establishment control' system which centrally controlled the existence and classification of every position in government.

The CSC was an independent body, appointed by government and subject only to removal by the legislature prior to expiry of the appointment term of incumbent commissioners. Because of its independence, it was its own appeal body. Public service appointments were required to be made according to the 'merit principle', which was generally undefined. However, it was clear that, where possible, promotion of existing employees should take precedence over bringing new employees into government. The commission's analysis shows that the commitment made in the 1970s was no longer shared by the government throughout the 1980s.

Introduction of Collective Bargaining

During the late 1960s and early 1970s government employees were being granted collective bargaining rights in other provinces, as well as at the federal level. In this vein, in October 1972, the newly elected government of BC appointed then chief personnel officer of the CSC, Mr. R.D. Higgins, as chair of a Commission of Inquiry into Employer/Employee Relations for the Public Service.

Three months later, he submitted his report to the government. Based on this report the government introduced and passed the Public Service Act (PSA) and the PSLRA in the fall 1974 legislative session.

The most significant recommendation of that report was that collective bargaining rights should be introduced for public service employees. The report contained specific recommendations as to how this should be accomplished.

Further, the report recommended that the Treasury Board be the employer's bargaining agent, supported by a personnel policy secretariat. Instead of accepting this, the government decided that the existing Public Service Commission (PSC) should be continued and have added responsibility for labour relations matters.

The report recommended the creation of two bargaining units - one for licensed professionals and one for all other public service employees. A year later, government agreed to the creation of a third bargaining unit for nurses. When the PSLRA was introduced in the legislature in 1974 this structure was formalized. It remains unchanged to this day.

The report recommended the establishment of a Public Service Adjudication Board which was to be responsible for hearing disputes regarding exclusions from union membership, appeals on job competitions and grievances. This too was accepted, but appointments to the board were never made and it never became fully operational.

In his report, Higgins recommended that the scope of bargaining be as broad as possible but that it not include the merit principle or its application. As a result of consultation on these recommendations, the act when introduced, allowed for negotiations between the parties of the procedures to be followed in applying the merit system.

The report recommended that those employees who 'performed managerial or confidential' roles be excluded from union membership with such designation to be agreed upon by the parties. This was accepted and implemented.

Finally, the report contained recommendations regarding training of public service employees, both specifically related to labour relations and generally. This was accepted and implemented, but never vigorously pursued. While several major recommendations of the Higgins Report were enacted, many issues, such as training and the implementation of the Public Service Adjudication Board were not. As a result, there still exists today a need for a fair public service appeal process for appointment decisions.

In many respects the Higgins Report was the starting point for the current labour relations and human resource management structures in place today.

By the mid-1970s the government of the day had commissioned an inquiry into broad public sector labour relations matters. Mr. G. Leslie was appointed to conduct this review. Although the terms of reference included the broad public sector, he reviewed certain issues in the public service and submitted minor recommendations that pertained to the PSA and PSLRA.

These acts were amended in 1976 to establish the Government Employee Relations Bureau (GERB), with responsibility to act for the employer in matters of collective bargaining in the public service. The duties of the PSC were limited to other human resource functions.

The creation of GERB, and other changes, began a new era of human resource management in the public service where the focus was mainly on labour relations issues and not on other human resource issues. The legacy remains in 1993.

In 1977, the government asked Mr. Higgins to prepare a progress report on the implementation of his earlier recommendations and to analyze the first few years of collective bargaining experience in the public service. In a report dated March 14, 1977, Higgins' made the following recommendations:

- that the process regarding exclusions be clarified, since this had become an irritant
- that the role of Treasury Board as employer be clarified, and that the quality of bargaining mandates provided to negotiators be improved
- that the three public service employee bargaining units be collapsed into one bargaining unit
- that the application of the merit system be removed from the scope of bargaining
- that the Public Service Adjudication Board be appointed.

With the exceptions that the three employee bargaining units were maintained and the application of the merit system remained subject to negotiation, most of these recommendations were implemented.

Negotiation of the Merit System

From the mid-1970s to 1983, negotiations proceeded between GERB and the BCGEU over the application of the merit system. These continued until agreement in principle was finally reached on most issues. The parties agreed to submit the remaining issues to binding arbitration.

Prior to the arbitration hearing, GERB negotiators discovered that the government was not prepared to accept the agreement they were proposing which included negotiated weights for the factors of merit. The government made it clear that the negotiators had exceeded their mandate. In particular, the government felt that the proposed system was too inflexible to allow effective recruitment and selection. Recruitment and selection issues continue to be a considerable challenge today.

Decentralization of Control

During the restraint period of the early 1980s, ministries found it difficult to comply with government's requirements within the constraints imposed by a centrally and independently administered human resource agency, the PSC. In particular, controls on organizational design and staffing were viewed by management as inflexible. In addition, many ministries did not believe that centralized training adequately met their particular requirements.

At the time, management thinking in general was focused on 'let the managers manage'. The idea was that if managers are to be held accountable for specific results, they must be given authority to manage their area as they see fit, within general constraints.

These ideas led government to take measures to decentralize authority in the public service. In particular, these included:

- the implementation of the Full Time Equivalent (FTE) system
- the creation of the Government Personnel Services Division (GPSD).

Decentralization meant that in 1984, human resource functions were fully delegated to ministries, and GPSD was created. In 1985, a new PSA (which is still in place today) was introduced and passed to legitimize the changes.

GPSD was created in essentially the same form as it exists today. Human resource functions of staffing and training were largely transferred from the PSC to ministries, subject to standards and policies developed by GPSD. The central labour relations and human resource functions of GERB and PSC were amalgamated in GPSD.

The mandate and duties of GPSD when it was established were set out in a 'Statement of Branch Roles and Operating Philosophy' as follows:

government's objective ... is that ministries will ... address and resolve personnel issues on a corporate basis

the agency was being created to enable government to ensure its agenda was being implemented

the division was responsible for, among other things, developing and communicating policies, establishing monitoring and auditing systems, providing technical expertise and advice, identifying significant trends and issues, and making specific decisions where consistency is critical

policies were to be developed with involvement from ministry staff, but with strong central leadership to ensure a corporate perspective

the division had clear central authority for labour relations, particularly collective bargaining, to ensure consistency

monitoring and auditing were perceived as crucial to ensure that policies were implemented consistently and adhered to across ministries

an efficient system for collecting and providing personnel management information was necessary.

The current perception by people at all levels of the public service is that the philosophy was never fully implemented. GPSD initially focused on developing policies at the expense of committing staff resources to ensuring ministry compliance. Even when serious abuses of delegated classification authority were revealed by GPSD, there was no government will to enforce changes, so auditing was perceived as a waste of effort.

Another problem was that essential human resource information was simply not available centrally. In fact, the lack of data has been a serious impediment to the work of this commission.

In general, GPSD, like GERB before it, is more focused on labour relations issues than on human resource issues. Certainly, from 1984 to 1991, the government of the day put its emphasis on labour relations.

Privatization

Throughout the restraint years and the rest of the 1980s, the government followed a policy of privatization. This was an international trend, usually based on a review of whether specific activities needed to be undertaken by government, or whether the activities were more appropriately provided by the private sector.

In BC, a process was put in place to apply objective criteria to identify programs that could be privatized. Compared with many governments, the BC government did not have a lot of direct control over activities that are not usually considered part of core government. However, the political imperative was to reduce the size of the public service. As a result, a number of core government services were privatized. These are generally units that, once privatized, rely completely on government as their sole or primary source of revenue.

While the size of the direct public service has not changed dramatically over the past nine years, the shape of the public service has. The number of service delivery employees has been reduced substantially while the number of management employees has been increased dramatically in part due to the requirement to manage external contracts. Figure 1 illustrates the point:

FIGURE 1
PUBLIC SERVICE ACT EMPLOYEES: 1983 & 1992*

EMPLOYEE GROUP	1983		1992		% CHANGE
	NUMBER OF EMPLOYEES	% OF PUBLIC SERVICE WORKFORCE	NUMBER OF EMPLOYEES	% OF PUBLIC SERVICE WORKFORCE	
BCGEU	36,072	83.9	29,732	76.1	-17.6
PEA	1,101	2.6	1,501	3.8	+36.3
NURSES	2,666	6.2	2,764	7.1	+3.7
Total Bargaining Unit	39,839	92.7	33,997	87.0	-14.7
Management	2,442	5.7	3,771	9.7	+54.4
Order in Council	240	0.6	227	0.6	-5.4
Physicians	95	0.2	60	0.2	-36.8
Other**	354	0.8	1,003	2.6	+183.3
Total Excluded	3,131	7.3	5,061	13.0	+38.1
Total Government	42,970	100.0	39,058	100.0	-9.1

* Data effective December each year. Includes estimates made for the Liquor Distribution Branch for 1983.

** 'Other' includes primarily statutory and confidential non-management exclusions.

Source: Government Personnel Services Division

But Figure 1 only tells part of the story. Government revenues and expenditures for the same period are as follows:

FIGURE 2 - BC CONSOLIDATED
REVENUE AND EXPENDITURE

FISCAL YEAR	REVENUE \$(MILLIONS)	EXPENDITURE \$(MILLIONS)	SURPLUS/DEFICIT \$(MILLIONS)
1992-93 *	16,022.0	17,970.0	-1950.0
1991-92	14,799.0	17,154.4	-2,355.4
1990-91	14,437.1	15,062.8	-625.7
1989-90	13,497.1	13,412.7	+84.4
1988-89	12,261.2	11,990.4	+270.8
1987-88	11,006.6	11,080.1	-73.5
1986-87	9,415.0	10,575.7	-1,160.7
1985-86	9,097.0	10,073.4	-976.4
1984-85**	8,773.5	9,767.4	-993.9
1983-84	7,344.3	8,356.4	-1,012.1

* Forecast per 1993 Budget.

** From 1984-85 onwards, a number of revenue items such as MSP premiums which were previously netted off from expenditures have instead been added to revenues.

Source: Quarterly Financial Reports and 1993 Budget - Ministry of Finance

FIGURE 3 - PUBLIC SERVICE ACT EMPLOYEES

MINISTRY	PSA EMPLOYEES		# FTEs 92-93 APPROVED	
	Number of Employees	% of PS Workforce	Number of FTE's	% of PS Workforce
DIRECTLY WITHIN MINISTRY				
Aboriginal Affairs	103	0.3%	80	0.3%
Advanced Education	397	1.0%	332	1.1%
Agriculture	501	1.3%	448	1.5%
Attorney General*	9,761	25.0%	5,692	19.3%
Economic Development	636	1.6%	629	2.1%
Education	448	1.1%	406	1.4%
Energy, Mines & Petroleum Resources	462	1.2%	391	1.3%
Environment, Lands & Parks	2,340	6.0%	2,337	7.9%
Finance & Corporate Relations	1,322	3.4%	994	3.4%
Forests	4,391	11.2%	4,205	14.2%
Government Services	852	2.2%	292	1.0%
Health	5,763	14.8%	4,946	16.7%
Labour & Consumer Services	376	1.0%	294	1.0%
Municipal Affairs	610	1.6%	568	1.9%
Premier's Office	69	0.2%	70	0.2%
Social Services	4,985	12.8%	4,579	15.5%
Tourism	354	0.9%	327	1.1%
Transportation & Highways	2,861	7.3%	2,741	9.3%
Women's Equality	75	0.2%	65	0.2%
Total	36,306	93.0%	29,396	99.5%
REPORTING TO LEGISLATURE				
Legislative Library	34	0.1%	N/A	N/A
Auditor General	96	0.2%	90	0.3%
Commission on Resources & Environment	16	0.0%	18	0.1%
Ombudsman	47	0.1%	43	0.1%
Total	193	0.4%	151	0.5%
SOCIETIES WITH PSA EMPLOYEES				
BC Mental Health	1,850	4.8%	N/A	N/A
Glendale Lodge, Tillicum and Veterans' Care Society, Oak Bay Lodge Society	709	1.8%	N/A	N/A
Total	2,559	6.6%	N/A	N/A
TOTAL	39,058	100.0%	29,547	100.0%

Note: Data effective December, 1992.

*Includes Liquor Distribution Branch.

Source: Government Personnel Services Division

Although the direct public service decreased through this nine year period, government expenditure continued to increase steadily.

There is considerable debate about the ultimate extent of privatization, which elements, if any, were justified, and whether the result is more or less costly. However, there is no doubt that one lasting result of the program was the damage it did to morale and employee relations throughout the public service. That is the important point for the purposes of this report.

Description of the Direct Public Service Today

The public service is comprised of those public sector employees who are direct employees of the government. As of December, 1992 there were 39,058 employees in the public service.

The chart shows both approved FTE's and the actual number of public service employees, as of December 1992. An FTE (full-time equivalent) is a measure used to represent the employment of one person for one full year or the equivalent thereof (for example, the employment of two persons for six months each). FTEs do not equate to the number of employees. The FTE System converts the number of part-time employees, including auxiliaries or employees who job share (two employees share one job and equate to one FTE), into full-time equivalents. The number of employees is always greater than the number of FTEs.

These employees were organized into 18 ministries and subsidiary organizations providing a broad range of public services in BC. Those services range from the delivery of social and health services, to the public service's role in enhancing, encouraging and coordinating economic development.

The distribution of public service employees across the ministries is shown in Figure 3.

The total public service payroll in the 1992-93 fiscal year was \$1.5 billion out of a total government expenditure on compensation in the broad public sector of at least \$10.4 billion.

HUMAN RESOURCE MANAGEMENT IN THE PUBLIC SERVICE

Project Overview

In the public service, the commission reviewed the following:

- the relationship of the central human resource agency, GPSD to line ministries
- the merit principle and its application in the hiring, recruitment, selection and promotion of public service employees
- the appeal system for those appointments
- relations between the government and its unions
- issues affecting the management/exempt group
- training and development of public service employees
- job classification and responsibility for employment equity in the public service.

Commission Process

Approximately 130 participants from the public service met in Vancouver on March 10-12, 1993 to address the challenges of renewing and revitalizing the public service of BC. The premier, cabinet ministers, leaders of all of the public service unions, representatives of public service managers and public service employees met with the commission to chart new directions for the public service into the twenty-first century. An observer from the official opposition was also present. This was the first such gathering in the history of the

public service of the province. Representatives of the deputy ministers, the government managers, and the four unions are continuing a forum through which consultation and action can continue to occur in areas of common concern and interest. The ongoing initiatives sponsored by this group will focus on the improvement of the delivery of public services to British Columbians.

In a letter to public service employees following the forum, the Premier said:

I left the Forum on the Revitalization and Renewal of the Public Service impressed with the intelligence and dedication of all who attended. The degree of commitment to improving the conditions and relationships in the workplace was profound. The challenge to all public employees is to reflect these values and goals in the performance of their responsibilities. Clearly, government has a leadership role to play in this regard.

In the months leading up to the conference, the commission conducted extensive formal and informal consultations on the public service issues listed in the overview.

The commission, assisted by staff seconded from GPSD and BCGEU, organized focus group discussions with line managers and with representatives of the four bargaining units. In total, 84 people participated in these half-day sessions in Victoria, Vancouver, Kamloops and Prince George. Public meetings were held in each community — 240 people turned out to make oral and written submissions on public service issues contained in the commission's terms of reference.

GPSD assisted commission staff by providing available data on the public service workforce including demographics, gender, occupational group data, bargaining unit breakdowns, turnover and age profiles. The commission designed and administered a questionnaire to collect the remaining data which GPSD was unable to provide.

Meetings were held between commission staff and the Deputy Ministers' Human Resources Committee, the Council of Directors of Human Resources/Personnel, GPSD staff, personnel staff from the Ministry of Health and the Ministry of the Attorney General, representatives of the opposition parties in the legislature, staff of the Professional Employees Association (PEA), the BC Government Managers' Association (BCGMA), the BCNU and the BCGEU.

More than 100 letters and submissions were received from a number of these groups, as well as from individuals in the public service.

Issues Identified

Submissions to the commission by employees at every level of the public service confirmed that with respect to human resources, each ministry operates in a highly independent fashion. There is little overall government perspective or consistency of application in matters such as recruitment, selection processes and classification. Notwithstanding the myriad policies on various human resource issues, these policies are generally not monitored for compliance. Essential management information on human resource practices is not available. As a result, employees are confused about what the human resource policies are.

The commission's task was to find the proper balance between central resourcing and ministry application to best meet the human resource needs of the public service in the 1990s.

THE MERIT PRINCIPLE

The present PSA was proclaimed in 1987. It requires that all recruitment and promotion decisions in BC's public service must be based on the principle of 'merit'. The act defines the factors to be considered in making selection decisions as: education, skill, past work experience and years of continuous service in the public service.

Most Canadian jurisdictions apply the merit principle to public service appointments. The definition and application in each province and in the federal government vary significantly from each other, but the purpose of the merit principle is consistent. The objective of each, as in BC, is to ensure that the 'best' person is selected for appointment to public service positions.

Each statute contains exceptions to the merit principle. These generally fall into two categories: order-in-council (OIC) appointments which are used for senior executives and political appointments, and direct appointments to address special needs such as lateral transfers for compassionate reasons or demotions.

A number of issues arise that are addressed in a different fashion in each jurisdiction. BC recognizes continuous length of service as a factor, but does not recognize career development needs of existing employees in the statute. Alberta gives preference to in-service applicants. In Nova Scotia, seniority is a tiebreaker for equally qualified candidates. In Manitoba, the following provision is found in the Civil Service Act, s.13(2):

Selection for appointment, promotion or transfer to a position shall be based on merit, with a view to developing a civil service comprising well qualified personnel with abilities, skills, training and competence required to advance from the level of initial appointment through a reasonable career consistent with the type of work and the classes of positions pertinent thereto.

Federally, the merit principle has additional factors such as, language and residence recognizing the greater diversity required of a national system.

In other Canadian jurisdictions, certain aspects of public service appointments are the subject of collective bargaining. However, in BC under section 13 of the PSLRA (1979 RSBC c. 346) certain topics are excluded from the application of collective agreements including:

13(c) the principle of merit and its application in the appointment and promotion of employees, subject to s. 5(3) of the PSA.

The definition of merit is accomplished through a staffing policy directive issued by GPSD. This directive was developed following some limited consultation with the public service unions but did not have their agreement. Currently, the application of the merit principle is delegated by GPSD to the ministries and operating agencies of government for implementation.

It is the commission's view that the concept of the merit principle is sound. What requires examination are the specific factors of merit and the application of the merit principle to the practical business of staffing the public service.

Many employees and potential employees in the public service believe that the merit principle has not been applied in a fair and consistent fashion for a number of years. Both the Council of Directors of Human Resources/Personnel and the BCGEU in their submissions to the commission, were critical of aspects of the application of the merit principle.

The council advised that the current application

...results in an extremely rigid application of the selection process which may create operational inefficiency, be incompatible with employment equity objectives, and be costly. In reality there is a considerable amount of entry level and auxiliary recruitment which is not in compliance with the prescribed merit process.

The council suggested that a revised or new act define merit but that it exempt certain types of appointments:

Direct appointments - Staffing actions that may be exempt from the normal selection process, including the eligibility to appeal, are proposed as follows:

- *lateral transfers and demotions (contained in the current PSA)*
- *appointments expected to be less than seven months (auxiliary and temporary appointments)*
- *secondments from outside the public service*
- *in the absence of an eligibility, list qualified candidates from competitions for the same job held within the last six months*
- *individual(s) are performing jobs of a program or responsibility that is transferred from outside of government to within government - e.g. the need to transfer employees of the BC Trade Development Corporation into the public service*

- *where it is in the best interests of the public service - e.g. redundant support staff in a minister's office who are OIC appointments; e.g. personal placement program, internship programs for designated groups, co-op program.*

The BCGEU submitted that the problems with the current system could be rectified by acceptance of the following recommendations:

1. *administration of the appointment process through an independent public service employment commission*
2. *joint determination of the factors comprising merit and posting procedures*
3. *development of a proper and consistent policy regarding posting of vacancies.*

Most public service managers acknowledge that the high degree of decentralization has resulted in an uneven application of the merit principle across the public service even for identical or very similar jobs. While designed to be fair, the use of a rigid format for competitions actually creates a deep sense of distrust in the process among public service employees.

Many candidates for competitions, both successful and unsuccessful, told the commission that the process is flawed and does not always select the best candidate for the job. The commission heard details of some competitions that raised real questions of fairness and due process and appeared inconsistent with the merit principle.

The application of the principle of merit raises a number of competing values. These include: seniority and length of service versus principles of employment equity; and, career development and opportunity for existing employees versus opportunity for public service jobs for those outside the public service.

Certain public service employees told the commission that the principles of merit and employment equity are incompatible because of a perception that equity group members may move into those positions which existing employees expected would be exclusively available to them.

The commission does not believe that debate over the relationship between career development and equity goals should be avoided within the public service. Both goals are entirely legitimate. The successful achievement of each is dependent upon the accommodation of both goals in the development of all aspects of employment policies and practices.

There is also a widespread belief that the current process for appeal by unsuccessful applicants on public service competitions has created many of the problems in the application of the merit principle. The commission has concluded that problems surrounding the merit principle are with the application and not the factors. Recommendations regarding the application will be made at the conclusion of this report.

STAFFING AND RECRUITMENT

Recruitment Issues

The commission identified four recruitment issues. These are:

1. hiring of auxiliary employees
2. administrative support staff hiring practices
3. senior management recruitment
4. recruitment, staffing and retention of systems professionals.

1. Hiring of Auxiliary Employees

There are two basic categories of public service employees: regulars and auxiliaries. Auxiliary employees receive fewer benefits than regular employees and have less job security. There are some differences in the treatment of auxiliary employees, dependent upon their excluded or included status.

Auxiliary employees are hired by government to address temporary staffing needs, to replace regular staff who are ill or on an approved leave from their job, to meet demands for seasonal help or on an 'on-call' basis by certain government ministries.

Often, managers hire an auxiliary employee to cover the period that a position is vacant (from the departure of the incumbent to the arrival of the new employee). Since the formal selection process can take up to 100 days, managers will hire an auxiliary employee to cover the period of the recruitment lag. Often the person is kept on for a longer period than planned, and eventually is converted to regular status.

Auxiliary positions are intended to be temporary and as a result selection for them is not always subject to the panelling process. After 1,827 hours (within the same 15-month period), subject to meeting certain criteria and conditions, auxiliary employees are converted to regular status. However, while this approach may successfully get people into jobs quickly, it contravenes, in a very fundamental way, the principle underpinning of the merit system.

FIGURE 4 - APPOINTMENT ACTIVITY IN THE BC PUBLIC SERVICE, 1992, BY TYPE

MINISTRY	LATERAL TRANSFER		COMPETITION		AUXILIARY APPOINTMENT				OTHER		TOTAL
	#	% Of Total	#	% Of Total	BY COMPETITION		WITHOUT COMPETITION		#	% Of Total	
					#	% Of Total	#	% Of Total			
Totals	735	6.2	2730	22.8	1471	12.3	3626	30.3	3389	28.4	11,951

Note: Other includes 1,110 seasonal staff hired by the Ministry of Environment, Lands & Parks and 1,097 hired by the Ministry of Health from outside the public service. This hiring in health includes a one time only recruitment of community health staff, consistent with government's objectives to reform health care.

Source: Commission of Inquiry into the Public Service and Public Sector
Human Resource Management Survey 1993

As Figure 4 demonstrates, only 35.1 per cent (22.8 per cent by competition for regular jobs and 12.3 per cent by competition for auxiliary jobs) of the 11,951 appointments made in the public service last year, were made as a result of the competitive process.

A redesigned selection system should have flexibility and simplicity as its guiding principles, so as to minimize widespread and inappropriate recruitment of auxiliaries. Selection of auxiliary employees should be subject to the merit principle, but there should be an expeditious selection process that is less onerous than that used for regular positions.

2. Administrative Support Staff Hiring Practices

The highest volume of staffing activity in government is at the entry-level of the office administrative series. The commission received oral and written submissions suggesting that the public service's present practices regarding the hiring of office administrative support staff needs major revision. Standards need updating and entry-level testing needs to be relevant to the skills needed on the job. As an example, submissions from line managers and administrative support staff complained that entry-level testing is still based upon typing skills instead of basic computer knowledge.

Up-to-date recruitment processes for entry-level office administrative staff should be undertaken on a system-wide basis in government. Centralized recruitment for entry-level administrative support staff would also facilitate better use of government personnel who are engaged in this activity on behalf of ministries, thereby significantly reducing duplication of work.

An inventory of qualified applicants should be established from which line ministries would recruit for either temporary or continuing needs.

3. Senior Management Recruitment

Executive and senior management level recruitment, excepting the deputy minister and assistant deputy minister levels, is currently handled by each ministry.

To build a management group that shares an overall government perspective between and among ministries and manage government programs with consistency, executive level and senior management level recruitment should be managed on a system-wide basis. A system of recruiting government managers would facilitate greater interchange of senior personnel between ministries and would allow for the development of a coordinated exchange program with the private sector. Such a program would give senior executives a broader perspective on issues throughout the province. As well, it would reduce similar work currently being undertaken separately and independently by personnel in each ministry.

4. Recruitment, Staffing and Retention of Systems Professionals

There is a unique staffing, recruitment and retention issue with respect to employees performing Information System (IS) functions in the public service. For over a decade, employers everywhere have experienced labour market supply shortages of trained systems professionals. In government, this has contributed to a complex staffing situation which is deserving of particular comment.

Government staffs its information systems functions within the public service differently from other functions. Ministries can use their discretion within their budget allocations, to choose from three alternate sources to meet IS staffing needs. These are:

- a. ministry employees hired under the BCGEU collective agreement or under the management salary scale

- b. i. professional service secondment from BC Systems Corporation (BCSC). A ministry is charged 1.5 times an employee's BCSC salary rate on a secondment. The additional cost is for benefits, recruitment, BCSC's infrastructure costs, training, career development programs, electronic mail hook-ups and miscellaneous costs. A ministry can return a BCSC secondment to the Corporation with short notice if it has no need for the position or the individual
 - ii. BCSC employees working through mission-based or fixed-term contracts
- c. contractors: there are personal service contractors and employees of legitimate companies working in the ministries. The issue of whether many of these contractors are actually true employees of the government will be addressed as part of the contracting review undertaken by government and the BCGEU under the auspices of the commission.

Some ministries staff exclusively through BCSC secondment, but no ministry staffs through an exclusive use of ministry employees. Within the IS operations of all ministries there are:

- 213 ministry employees
- approximately 444 mission-based contract employees and professional service secondments from BCSC
- approximately 450 contractors whose positions were a major feature of the contracting review and another 380 whose functions have been agreed by all parties to be bona fide contractors and to be an appropriate use of contract staff.

The commission has reviewed this complex environment from the perspective of its terms of reference and has identified the following issues:

- the current multiple option staffing model raises questions about government's ability to achieve the goals of the Deputy Ministers' Committee on Information Management (DMCIM) for good management of the IS functions in government
- consideration of alternative staffing models raises questions regarding the appropriate role of BCSC.

Each ministry is responsible for providing the IS services that its operations require within the budgetary allocations approved by the legislature and within the Financial Administration Act. There are three types of expenditures:

1. equipment (e.g: computer hardware or software)

2. personnel or labour expenditures to maintain information systems in operation
3. development of new applications for technology to government operations (including both labour and technology costs).

History and Description of the BC Government's Information Technology Environment

Before 1977, responsibility for information systems was located in individual ministries. Three ministries had significant computing power and the technology of one of these three, Transportation and Communications, was available to ministries that could not afford the expense of maintaining their own system. Ministries had their own programming and technical staff. As a result there was significant duplication of services and staff movement was restricted.

In 1977, BCSC was formed to rationalize government systems processes. BCSC was originally intended to be the provider of all IS functions for the BC government. BCSC developed staff and human resource capacity to meet the technology needs of ministry business. By 1984, it became clear that completely centralized IS services were not meeting individual needs of ministries. Consequently, systems staff were positioned in the ministry business operations to work directly with the people they serve. This marked the beginning of the use of secondments from BCSC to ministries.

While the role of BCSC has changed a number of times over the intervening years, it remains one of the major fixtures of government's IS environment. BCSC is a crown corporation that in fiscal 1992-93 had unaudited operating revenues of \$185.7 million and unaudited expenditures of \$173.8 million. BCSC is the largest IS organization in western Canada.

Compensation levels vary significantly for the four IS staffing options currently used by government ministries.

Although employees of BCSC and direct ministry employees are both members of the BCGEU, they operate under separate collective agreements. Human resource management for BCSC is handled independently from that of government ministries. BCSC salaries are, on average, 15.5 per cent higher than government salaries for comparable work. Contractor costs are, in general, higher than the cost of equivalent compensation for the same services paid by either BCSC or direct government employees.

The apparent inequities in the system have encouraged ministries to find 'creative' solutions to compensate their IS employees at higher levels. Some ministry employees who actually perform IS functions are hired within classifications such as 'Research Officer' to allow for higher compensation rates than are available within government IS classifications.

The inequities in a multi-staffing option system are not limited to compensation levels. It is widely acknowledged that as an organization, BCSC provides its employees with excellent training and has career development processes that are better developed than those in the rest of government.

There is a debate within government over the best staffing model. The options for improvement of the staffing model are varied and each has strengths and weaknesses.

In July 1992, the Deputy Ministers' Council on Information Management (DMCIM), in a submission to the commission, defined the following objectives of government in human resource management as it relates to information technology functions:

- to create effective government managerial control over the IS functions
- to ensure that government as employer has access to individuals with appropriate skills to staff IS functions

- to ensure fair and equitable human resource practices in compensation, training and career development that are competitive in a national labour market
- to ensure that IS labour and other costs can be justified
- to ensure continuity of information systems support over the long term
- to provide sufficient flexibility to allow adaptation as required by business needs
- to facilitate economic development of the information technology industry in BC.

Following receipt of the DMCIM submission, the commission worked with the advisory committee of IS directors to develop five staffing alternatives:

1. the status quo where ministries can choose between BCSC professional service secondment charged at 150% of salary and government classification scales. Ministry employees would remain where they are as would employees on BCSC secondment. Contract employees would be offered positions in either BCSC or the ministry at the choice of the ministry
2. creation of a 'level playing field' so that ministries could choose between BCSC secondment and ministry staffing with employees receiving relatively equal compensation regardless of the choice of the ministry. Ministry employees and BCSC secondments would remain as they are. Contract employees would be placed in the fashion that ministries determined to be appropriate

3. a 'single source' staffing model through BCSC secondment with changes in the role of BCSC necessary to accommodate this change. Under this proposal, existing ministry IS employees and contract employees would all become BCSC employees. New ministry IS employees would be hired through BCSC
4. a 'single source' staffing model through creation of an IS labour force within government supplying labour to ministries
5. elimination of the BCSC secondment option. All ministry IS functions would be staffed in the same manner as any other staffing in government on a ministry basis. There would be no central focus to human resource issues regarding IS except as one existed in relation to other human resource functions.

A single staffing source for information systems work within government may provide improved opportunities for professional development and training of all systems professionals. Further, such a model will bring stability and coordination to the province's IS employees.

If the costs are acceptable, the commission believes a 'single source' staffing model for IS functions may be the best option. The commission understands that the Information Management Group (IMG), under direction of the DMCIM, has undertaken an independent cost analysis of the various staffing options.

Once the cost implications have been identified by the IMG, the commission staff will consider the feasibility of moving to a single source staffing model. The commission staff who have worked on the systems project will submit a complete report to the Minister of Finance and Corporate Relations, of all of the issues identified in the course of the commission's work, by June 30, 1993. This report will include an analysis of the cost implications identified in the independent study.

ADVERTISING VACANCIES

From our review of the present system for advertising vacancies, three issues emerged:

1. need for a better coordinated system for advertising vacancies
2. need to identify public service office locations where the public can apply for public service employment
3. rate of in-service versus rate of out-of-service postings.

1. System for Advertising Vacancies

Vacant positions are advertised to interested applicants through a newsletter, 'Postings - Province of British Columbia Employment Opportunities', published every week by GPSD. Each posting contains a statement about who is eligible to apply for the job in question.

Ministries have the discretionary authority under the current government policy directives, to determine the scope of the competition. They have exercised this authority in ways that vary from one ministry to the next. Some ministries restrict promotional job competitions to internal applicants as a means of promoting career development within their own work force, while others open all job opportunities to include the public at large.

2. Receiving Job Applications From the Public

With the decentralization of the recruitment and staffing function to ministries in 1984, the government lost its ability to receive general applications from the public in any systematic way.

Practices today vary considerably between ministries and from one government office in a community to another. Every member of the public who wishes to work for the BC public service faces the challenge of obtaining information about how and where to apply

for jobs. Sometimes the answer is to apply in several different places. This has created confusion and poses significant difficulty for equity group members, such as the physically challenged. Furthermore, in some cases the public service may be deprived of the best candidates because they are not aware of them.

3. In-Service vs. Out-of-Service Postings

One issue raised repeatedly in submissions from employees was that external competitions are frequently conducted even when there are suitably qualified internal candidates.

In 1992-93 there were a total of 3,547 competitions posted for government jobs - 2,660 (75.0%) were posted to the public as well as to internal applicants; and 887 (25.0%) were only to internal applicants.

GPSD does have a policy which sets out criteria to be used by ministries when determining the scope of postings.

FIGURE 5 - POSITIONS POSTED: 1991-92 AND 1992-93

YEAR	BARGAINING UNIT								EXCLUDED		TOTAL	
	BCGEU		NURSES		PEA		TOTAL		TOTAL		POSITIONS	
	IN SERVICE	OUT-OF SERVICE	IN SERVICE	OUT-OF SERVICE	IN SERVICE	OUT-OF SERVICE	IN SERVICE	OUT-OF SERVICE	IN SERVICE	OUT-OF SERVICE	IN SERVICE	OUT-OF SERVICE
1991-92	1,127	1,784	17	244	49	424	1,193	2,452	262	390	1,455	2,842
1992-93*	639	1,628	49	440	20	289	708	2,357	179	303	887	2,660

*Positions posted to March 5, 1993.

Note: The percentage of positions posted out-of-service increased from 66% in 1991-92 to 75% in 1992-93 (to March 5, 1993).

Source: Government Personnel Services Division

The criteria cited in 'The Personnel Management Policies and Procedures Manual' are as follows:

Competitions may be limited:

- on a geographic basis provided that certain criteria are met, or,
- where the nature of the work is short-term or on-call, or,

Competitions may be expanded:

- to out-of-service applicants when one or more of the following criteria are met:
 1. there is a demonstrated lack of qualified in-service applicants
 2. an in-service limitation would perpetuate a systemic barrier
 3. the vacant position is at a level at which most people in that occupational group enter the public service (e.g. Office Assistant 1 or 2, Social Worker 1 or 2, Nurse 1, Labourer 1, Forest Technician 1 or 2)
 4. management considers that the operation of the work unit would be significantly enhanced
- to occupational group, position level or organizational unit
- to designated groups for employment equity purposes.

There is currently little monitoring of the rate of in-service vs. out-of-service postings.

A breakdown of the data for the clerical group reveals that there were 352 (49 per cent) in-service postings as compared to 366 (51 per cent) posted outside in 1992. Two reasons have been cited by managers to support this rate of external postings. The first is that the position may be in a particular geographic location where it is appropriate to recruit locally.

The second reason is that outside postings cast a wider net in contemplation of attracting equity group members. However, in the absence of set government targets or monitoring, there is no means available of determining whether or not an equity objective or any other objective noted in the policy is being met by the outside posting or whether it could have been met by internal bridging mechanisms.

In its submission, the BCGEU put forth a persuasive argument for limiting the number of external postings so that internal candidates can achieve more promotions. They told the commission that most job vacancies are posted to allow external applicants to apply. Examples cited by the BCGEU are vacancies for administrative support jobs where there are many qualified public service employees to draw from.

On the other hand, a compelling argument was made by managers at all levels that the process should not be made cumbersome by setting out a sequential process (internal first, and then external postings) as a rigid requirement. One suggestion made to resolve this problem was that postings be open to all, but that internal employees be considered first.

These points led the commission to inquire into appointment activity in order to assess the policy options that should be considered.

The commission asked ministries to provide information on appointments to the public service. One aspect that was queried dealt with the appointment/promotion of internal applicants in competitions that were posted to allow for out-of-service applications (75 per cent of the postings in 1992 were open to out-of-service applicants). The data supplied to the commission revealed that 35 per cent of the appointments made on those job competitions were awarded to public service employees.

At present, the public service rate of growth is reducing. Employees are increasingly concerned about employment security. In 1992 attrition shrank to a five-year low at 5.3 per cent. The current directives and resulting practices need review.

Specific regulations for different job classifications and levels are needed to define the scope of the area of postings to ensure that internally qualified candidates have appropriate

opportunities for career advancement. Finding the right balance between the promotion of internal qualified applicants and equity, (building a representative public service) will restore a sense of fairness, thereby promoting motivation, and dedication to all categories of career-interested public servants. Such factors as geography and inter-ministerial career opportunity must also be considered in developing these guidelines.

SELECTION STANDARDS AND TECHNIQUES

Current selection standards and techniques were designed to ensure the objective assessment of all candidates and to identify the best candidate for the job. But certain aspects of the system actually work against these goals.

In order to avoid the inconvenience of an unstaffed position, managers often try to tailor their selection techniques to guard against the possibility of an appeal. The emphasis is on a candidate's credentials and specific knowledge testing rather than the ability to do the job. Many submissions stated the interviews were too formal and structured with little opportunity for an applicant to demonstrate his/her real ability to do the job. While these practices may lessen the chance of an appeal, they do not necessarily identify the best candidate for the job.

Employees, their representatives and line managers all proposed a substantive shift away from the present rigid screening and assessment procedures to a system that recognizes competency, on-the-job learning and skill transference potential.

A wider variety of selection techniques would also enhance the selection process. There is no single technique appropriate to all 40,000 public service jobs. Jobs require very different skills. Selection techniques that are relevant to assessing the skills for the particular job vacancy will undoubtedly assist managers when assessing candidates.

THE APPEALS SYSTEM

An appeals system for public service selection decisions is an integral part of the recruitment process for the public service. The commission received a number of submissions expressing grave concerns regarding the present appeal system and urging that it be replaced with a system that ensures a fair hearing for the appellant. Between 1987 and 1992 there were 918 appeals, representing five per cent of all competitions in the period. The average time elapsed from the date of filing an appeal to its final resolution was 56 days. In the period from February 1992 to February 1993, there were 160 appeals filed. Only 25 hearings have been held and resolved to date with 32 still in process. Most significant in these statistics is the fact that 45 of these appeals were withdrawn. Deputy ministers rescinded competitions in 37 of the appealed cases on the basis that there were technical flaws in the selection process itself. Employees told the commission that the reason for cancellation of competitions by deputy ministers was to avoid the cumbersome process of the current appeal system. When this happens, frustration builds for appellants and confidence in the system diminishes.

Public service employees believe that the only way to access reasons for selection decisions, and feedback on their performance during the interview process, is by launching an appeal.

The structure of the current five-stage appeal process works against its effectiveness. The PSC's general practice is to adjudicate with a three-person panel. There is a view that a single person panel would be more expeditious and would eliminate the administrative difficulty of organizing three adjudicators for a hearing.

Under the current PSA, the PSC has limited remedial authority where an appeal panel finds that a competition has violated the merit principle. It can only rescind the appointment and order a new competition. It cannot substitute its decision for that of the original selection panel. This inevitably results in a renewed requirement to fill the vacancy. The time required to fill an appealed position can easily exceed 100 days following the average time lines for the selection and appeal process. Consequently, sometimes after an appeal has been rendered, management works around the system by filling the job on whatever basis they can: by using an auxiliary, contracting out the work, or by a secondment to avoid further delays.

The appeal process in the BC public service is unique among Canadian provinces in that external applicants have the same right of appeal as internal applicants. The commission concluded, based on many submissions, that all applicants should have a general right to inquire into and be furnished with the reasons why they were unsuccessful in a competition, but that the full right of appeal should be extended to eligible employees who are unsuccessful applicants.

In summary, the commission is recommending changes to cure the defects in the current system and to ensure a fair and expeditious hearing of the appeals.

THE EXEMPT JOB CLASSIFICATION SYSTEM

Management jobs classified above level 6 in the public service are monitored for consistency by an inter-ministerial committee.

Management levels 1-5 are not. Many submissions to the commission asserted that there is inconsistency in the application of the existing job classification system for exempt jobs in levels 1-5. The methodology used for classifying these jobs, combined with the decentralization of this function to line ministries since 1984, has contributed to inequities in the treatment of these employees.

FIGURE 6 - JOB DESCRIPTIONS FOR THE BC PUBLIC SERVICE WRITTEN BY PUBLIC SERVICE EMPLOYEES AND BY CONTRACTORS IN 1992

MINISTRY	Request Handled Internally		Request Handled with Assistance (by contractors)		TOTAL
	#	% OF Total	#	% OF Total	#
TOTAL	5791	79.8	1463	20.2	7254

Source: Commission of Inquiry into the Public Service and Public Sector Human Resource Management Survey 1993

One contributing factor is that job descriptions are written by personnel officers in some cases and, in other cases, by outside contractors. Exempt employees claimed that there is no visible quality control system in place either within ministries or across ministries to ensure consistency. Figure 6 illustrates the problem.

The commission was given examples of reclassification requests which have gone unanswered for up to two years.

Figure 7 shows the volume of activity related to general public service classification and reclassification requests made of personnel staff in 1992.

FIGURE 7 - CLASSIFICATION/RECLASSIFICATION REQUESTS 1992 BY EMPLOYEE GROUP FOR BC PUBLIC SERVICE

MINISTRY	BCGEU		BCNU		PEA		MGMT 1-5		MGMT 6-11		SCHED. A		TOTAL
	#	% of Total	#	% of Total	#	% of Total	#	% of Total	#	% of Total	#	% of Total	
TOTAL	5576	77.6	615	8.6	308	4.3	465	6.5	160	2.2	61	0.8	7185

Note: Totals provided by the ministries to the commission are not the same for Figures 6 and 7.

Source: Commission of Inquiry into the Public Service and Public Sector - Human Resource Management Survey 1993

The commission has concluded that the methodology used for classifying jobs needs updating and streamlining in order to meet current needs in the public service.

Therefore, the commission endorses a review of the job classification system.

TRAINING AND EMPLOYEE DEVELOPMENT

Submissions confirmed that, with the exception of management training, there is limited government-wide policy regarding training. Ministries carry responsibility for training their employees.

There are examples of ministries offering systematic well designed training programs that are linked to job skills needed and career development. Examples include the programs offered by the Attorney General's Ministry for corrections officers and by the Emergency Health Services Commission for its ambulance staff. Such examples are the exception, and not the norm.

The highly decentralized approach to training results in many problems for the public service:

- corporate policies may flounder in the implementation stages due to a lack of consistency in the training offered to ensure their implementation at the ministry level
- ministries have varying commitments to the training needs of employees
- small ministries simply don't have the staff or the financial resources to train personnel, resulting in employees in small ministries having lesser opportunities than those employed in larger ministries

- uneven access to training in different areas of the province may well require a consistent policy of educating trainers to provide training to personnel at work sites around the province.

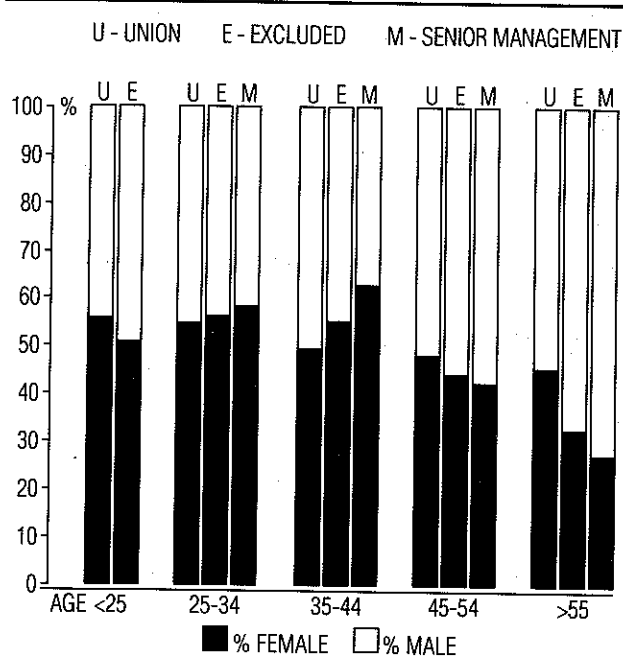
There are many ad hoc employee development initiatives underway in the various ministries. These include secondments, bridging programs, mentoring programs (for advancement of women), and movement between line and staff jobs. In some cases, they result in people being moved out of a regular job ostensibly for development purposes, but then being prevented from returning to their regular job when the assignment ends.

The commission is recommending greater coordination and development of guidelines and standards so as to enhance all government training and development programs.

EMPLOYMENT EQUITY IN THE PUBLIC SERVICE

The public service work force is not representative of the public it serves. The unions and GPSD advised the commission that certain groups, such as women, visible minorities, physically challenged and aboriginal people are either under-represented in the public service generally or they are proportionally over-represented in the lower paying jobs. Data is available that shows the representation of women in the public service, but there is no appropriate data available for the other groups. This is shown in more detail in Figure 8.

FIGURE 8 - REPRESENTATION, BY GENDER, AND MAJOR EMPLOYMENT GROUPS, BC PUBLIC SERVICE DECEMBER, 1992



Source: Government Personnel Services Division
Public Service Act
December, 1992 Payroll Data

Currently, responsibility for employment equity is with the Ministry of Women's Equality. For employment equity to work effectively, a revision of current personnel policies and practices will be needed. Any ministry, other than the one that has overriding responsibility for human resource matters in the public service, would have great difficulty in accessing and changing the systems that must change.

The commission believes that a central human resource agency should be responsible for the development of the employment equity policy; and that deputy ministers should be held accountable for its implementation as part of their overall responsibility in managing human resources in their ministries.

As well, this important policy initiative is a priority issue for labour and management. Currently, the unions representing employees of the government are being consulted on this matter.

Clearly, overall government policy is needed to assure ministry compliance with general government policy rather than the present system which leaves each ministry to interpret general policy and then to develop its own programs in isolation.

THE MANAGEMENT / EXEMPT GROUP

There are 5,061 excluded staff in the public service. Of those, 800 are members of the BCGMA, a voluntary association, which attempts to coordinate and represent managers' and other exempt employees' views on employment matters.

There is no central inventory of management positions maintained in the public service. There is no formalized succession planning or systematic development for management employees. Terms and conditions of employment for these employees are usually determined once the negotiated settlements are concluded and are usually based upon those settlements.

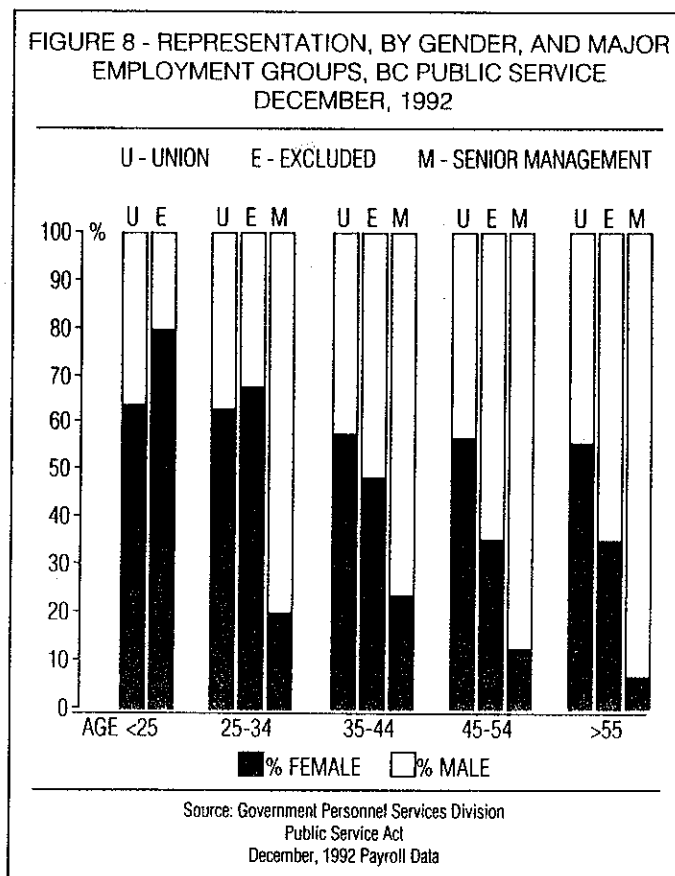
Management employees believe that they lack a consistent and effective voice in government decisions that affect their terms and conditions of employment. As well, there is no process for management employees to air concerns about their terms and conditions of employment.

ERRATUM

Correction of Figure 8, Page 26, Volume 1.

FINAL REPORT VOLUME 1 – THE PUBLIC SERVICE OF BC

(PREVIOUSLY MAILED)



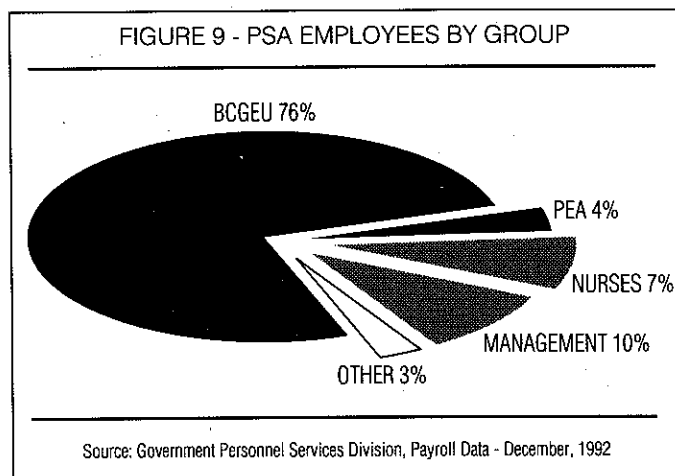
Source data from Government Personnel Services Division

AGE	< 25		25 - 34			35 - 44			45 - 54			> 55		
	U	E	U	E	M	U	E	M	U	E	M	U	E	M
MALE #	760	23	3,410	250	8	5,323	1,084	147	3,506	1,126	222	1,147	309	42
FEMALE #	1,331	88	5,599	519	2	7,135	937	43	4,429	568	29	1,357	157	3
TOTAL #	2,091	111	9,009	769	10	12,458	2,021	190	7,935	1,694	251	2,504	466	45

RELATIONS BETWEEN THE GOVERNMENT AND ITS UNIONS

Public service employees are represented by four unions (in three certifications), and one management organization. The BCNU and the UPN represent, in a single certification, 2,764 nurses who are directly employed by the provincial government. The PEA represents 1,500 licensed professional employees of the government and the BCGEU represents the remaining 29,732 unionized employees in the public service.

The BCGMA represents more than 800 excluded employees out of a total group of 5,071 who are eligible to belong.



The drive to privatize and contract out public service work over the last ten years has undermined the relationship between government and its public service unions. For the BCGEU, it meant a reduction of 6,340 (-17.6%) members between 1983 and 1992.

The president of the BCGEU stated in a submission to the commission in May of 1992, called 'Restoring the Public to Public Services':

There is an opportunity to re-examine what services the province should provide, and the method by which it delivers services in key sectors. Not all

historical services are still relevant to the modern government. New services will be brought on line and older ones revamped to meet contemporary needs.

Whatever services the administration decides to provide, it must make a commitment to deliver them effectively and efficiently. Effective services are those which meet the needs of the consumer. Effective and efficient regulation of sectors of the economy are those which achieve the respect and compliance of the sector. Efficient delivery is done within the financial capacity of the provider.

While efficiency and effectiveness are sometimes at odds, every effort should be made to empower frontline staff to do the very best job that is in their power to deliver.

The government, the union and the staff have to make a fundamental commitment. Don't offer public services in a slipshod or half-hearted fashion. Together we can make a commitment to quality by putting the public first.

The Public Service Forum revealed that there is an opportunity now for management and unions in the public service to jointly address many human resource issues of common interest. These include the harmonization of work and family, and safety and health issues, among others.

The BCGEU, PEA, BCNU, UPN and the current government have all worked together effectively to address the issue of conversion of shadow employees to employment status.

This demonstration of constructive cooperation in resolving longstanding disputes is impressive. The commission is currently sponsoring a process whereby other joint initiatives between the government and its unions will be undertaken.

With Respect to Service Quality

In the late 1980s, the government endorsed an initiative called "Service/Quality". Some pilot projects that came under the auspices of this initiative were successful, but others floundered. Other political and social events at that time created a climate within which unions were reluctant to participate fully.

The Forum on the Revitalization and Renewal of the Public Service persuaded the commission that this initiative should now be revisited in a forum where representatives of management and labour work together to shape and improve public services.

IMPROVING WORK SYSTEMS AND ORGANIZATIONAL DESIGN

In the course of the commission's review of personnel and labour relations matters, employees and line managers raised concerns about broader management issues.

Submissions were made to the commission to encourage government to review the following:

- greater devolution of decision-making authority to the line employee
- reduction of decision-making levels within government
- identification of redundant work

- duplication of staff work, rules, reports, etc. that contribute to unnecessary administrative work
- appropriate and creative use of information technology to support public service objectives and assist public service employees to do their work effectively.

Such reviews must be systematic and thorough. Unnecessary levels identified are not necessarily all found in the management and excluded groups, but will also include levels within the bargaining units. Unnecessary supervision and monitoring of work as well as unnecessary paperwork must be identified and eliminated if resources are to be reallocated in the delivery of public services.

As an example, one large Canadian private sector employer operated with 11 reporting levels between service delivery and the CEO five years ago. After review and careful planning that entailed devolving responsibility downward and the development of appropriate systems, the employer found that it operated effectively with five levels, and redesigned its entire operation accordingly.

The commission suggests that a simple three-step process, involving all participants, be followed to conduct work system reviews in the public service.

- consideration must be given to whether or not specific work is purposeful
- employees and management should review work processes. Both the flow of the work and the method of work should be reviewed and revised as necessary for efficient and effective delivery
- implementation of improved processes should be undertaken at each work site as appropriate changes are developed.

A continual and ongoing review of the work in consultation with all employees and clients will undoubtedly contribute to more efficient and effective service delivery.

MANAGEMENT OF HUMAN RESOURCES IN THE PUBLIC SERVICE

The Purpose of Human Resource Management

The preceding sections have described the issues that affect the operation of the public service with respect to recruitment, staffing and appeals processes, training and employment equity. To be made meaningful, the changes the commission believes are necessary must be made within a context of structural change to human resource management.

The primary purpose of human resource management is to achieve the most effective use of human resources - employees - in the delivery of services to the public.

The commission has found a high degree of dedication among public service employees but also a considerable degree of frustration.

The Principles of Human Resource Management

The public service of British Columbia faces serious challenges including:

- increasing public demand for services and a growing demand for more involvement of the public as consumers and interest group advocates
- demands from employees for greater involvement and participation
- the fiscal limitations of government and public concern about the size of government debt
- the opportunities and demands created by rapid technological change.

Figure 10 illustrates the contrast between 'old' conceptions of organizations and the emerging values of 'new' public service management:

FIGURE 10 - THE EMERGING GOVERNMENT VALUES

FACTOR	OLD	EMERGING
Mandate	Legislative/fixed	Flexible/visionary/strategic
Environment	Stable	Turbulent
Policy Formulation	Inward looking	Involvement of partners/stakeholders
Program Delivery	Controlled internally	Shared with stakeholders
Customers	Serviced with toleration	Valued assets
Results	Seldom measured	Measured Against Standards
Accountability	Diffuse	Results based
Power/decision making	Centrally controlled	Decentralized
Problem solving	Independent	Interdependent/cross functional
Technology	Desirable	Essential
Organization structure	Stacked	Delayed
Management philosophy	Control based	Values based/learning/service driven
Management style	Directive	Participative/facilitative
Management of change	After the fact	Preemptive/anticipatory
Management/union relations	Confrontation	Consultation
Employees	Tools	Empowered/respected stakeholders
Work Attitudes	Put in your time	Have fun on the job
Achievement	Taken for granted	Recognized and rewarded

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Source: Optimum - Journal of Public Sector Management, Summer 1992 Volume 23-1

To create a context for the required changes to human resource management, the government must:

- develop a set of principles regarding effective and efficient human resource management that can achieve both public and employee support
- ensure that its structures are capable of meeting these principles.

For the future, much improved relationships between all parts of the public service and among all employee groups will be vital to the government's ability to provide services to the citizens of the province. Building a climate of openness and innovation will occur if employees at all levels are treated with respect and their input on improving public services is sought.

The new human resource agency recommended by the commission, will be responsible for setting a new tone and for establishing the proper means for government to work more closely with its employees as it seeks to meet its objectives.

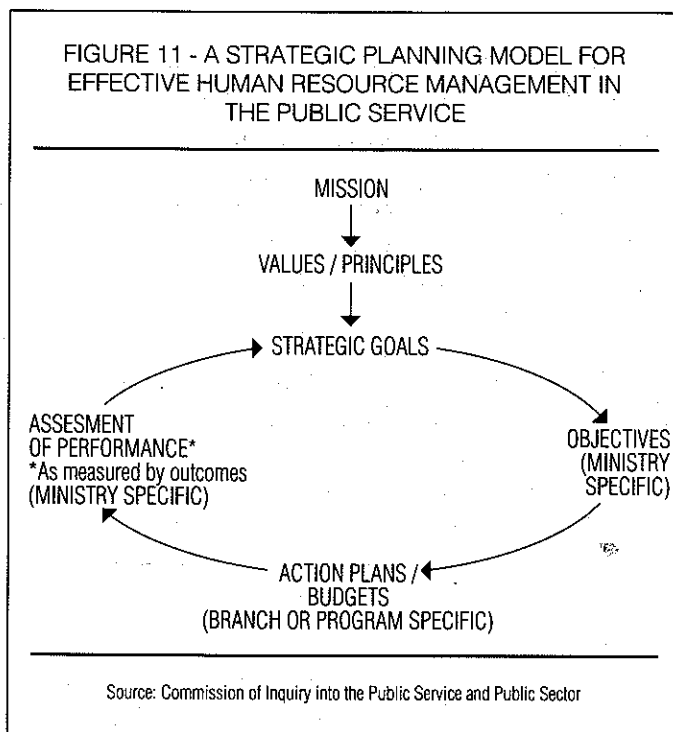
The Forum on Revitalization and Renewal of the Public Service sponsored by the premier and the commission took one major step towards the development of these principles.

A draft mission statement and set of principles are a priority task assigned by the forum to the working committee which developed from the forum. The commission urges the government to finalize and approve this mission statement and principles in collaboration with public service employees and their representatives.

Upon finalization, they must be taken out to the ministries and operating units of government to be translated into strategies for the effective delivery of government services.

From Principle to Strategy

The commission has developed a straightforward planning model for cohesive human resource management in the public service.



The mission statement reflects the overall values and direction of the system. Development of principles and strategic goals provides the corporate direction which will in turn guide development of action plans at the ministry level.

The key to effective and successful human resource management is to develop structures that are flexible, effective, embrace open communications and are capable of responding to change.

The Role of a Central Human Resource Agency

The report has earlier described the decentralized structure of government operations. In summary, each of the 18 different ministries has its own management culture and human resource infrastructure. GPSD, as the central agency, handles all collective bargaining, manages grievances at the final stage of the process on behalf of the government, and develops all personnel policies. GPSD has authority to develop and create personnel policies, but its effective responsibility for those policies is limited both by the nature of the mandate and degree of resources that it has to fulfil its responsibilities, particularly with respect to monitoring and compliance. Implementation of government-wide policy is handled independently by each ministry.

The commission identified three basic options for human resource management in the public service:

- retention of the present highly decentralized model
- return to an older, highly centralized PSC model where command of most important decisions is at the centre
- development of a new central agency that seeks to balance the strengths of decentralized service delivery with enhanced central authority for development of policies and enforcement mechanisms regarding compliance.

Figure 12 illustrates the values attached to these options.

The commission has concluded that the establishment of a revised central human resource agency, in keeping with option 2b in Figure 12, provides the best opportunity for

FIGURE 12 - OPTIONS FOR DESIGN OF THE NEW HUMAN RESOURCE AGENCY

	STRENGTHS	WEAKNESSES
1. Current Public Service	• flexibility • timeliness of action	• lack of consistency • duplication of resources • poor servicing by personnel in regions and in small ministries
2a. Revised Public Service	• Sets policy but leaves implementation and compliance to ministries	• consistency of approach • needs more resources • rigid approach • unresponsive to line ministries • timeliness of action
2b. Revised Public Service	• Central agency with no delegation	• corporate wide culture • brings consistency with flexibility • monitors all personnel activity • gives government the ability to plan • allows the development of a corporate culture • allows for appropriate authorities to be fully delegated within the ministries • lessens autonomy of line ministry • needs more resources

Source: Commission of Inquiry into the Public Service and Public Sector

effective human resource management in the public service. The agency will balance the current decentralized model with enough of a central focus to promote overall efficiency, effectiveness and equity throughout the public service. This model will ensure that local initiatives to enhance the delivery of services will be supported within a centralized framework.

The model proposed by the commission contains a set of checks and balances which will prevent the agency from frustrating ministry objectives but will ensure that ministries adhere to government-wide objectives. This proposed new central human resource agency must be provided with statutory responsibility for all human resource functions and with the ability to both delegate and revoke this authority to line ministries when appropriate.

Responsibilities of the New Agency

The new agency must be responsible for the following functions:

STRATEGIC HUMAN RESOURCES (SERVICE IMPROVEMENT)

- provide direction to ministries on efficient, effective organizational design and implementation processes
- foster respectful relationships with unions and employee groups throughout government
- consult with employee groups in the developmental stages of new human resource policies and on other matters
- undertake strategic human resource planning at a corporate level

- enhance employee development at all levels
- support government-wide initiatives improving the delivery of public services, which includes direction to joint labour/management ministry committees and specific joint projects
- provide corporate direction and support to all employee development activity. This includes training where new corporate policies or programs are introduced, such as freedom of information or employment equity
- ensure that effective occupational health and safety programs are in place across the government as well as providing policy direction on such important emerging workplace issues as harassment
- employment equity initiatives – build bridges between classifications where appropriate, for equity and career advancement purposes.

CORPORATE SERVICES

- delegate staffing, wholly or in part, to line ministries. For example, if a ministry is the only employer for a particular occupational group, then that ministry should have full delegated authority on behalf of the government for staffing of the group.

This may still mean that implementation of staffing functions is delegated to the line ministries but greater direction, coordination and accountability are required. Clear policies and delegation instruments that set out the expected standards of performance for line ministries are the responsibility of the central agency

- coordinate certain staffing activities across ministries as appropriate (i.e.: entry level hiring from outside, executive recruitment, target group recruitment and others that may be identified)
- establish a management services support function with specific responsibilities for management development activities
- provide clear direction to ministries with respect to job classification and compensation. In certain cases, a line ministry may have full delegated authority for the classification of jobs in a particular occupational series (for example, where the ministry is the only employer). In other cases, the line ministry will have full delegated authority up to certain levels in a series
- provide benefits administration.

COLLECTIVE BARGAINING

- subject to the direction of Treasury Board, shall negotiate collective agreements on behalf of all government employees and handle directly or coordinate related contract administration matters such as the management of arbitrations with the appropriate ministry. This is to be consistent with the PSLRA
- to conduct labour relations research activities
- to create labour relations training with a view to developing joint problem-solving training programs with the representatives from the labour community.

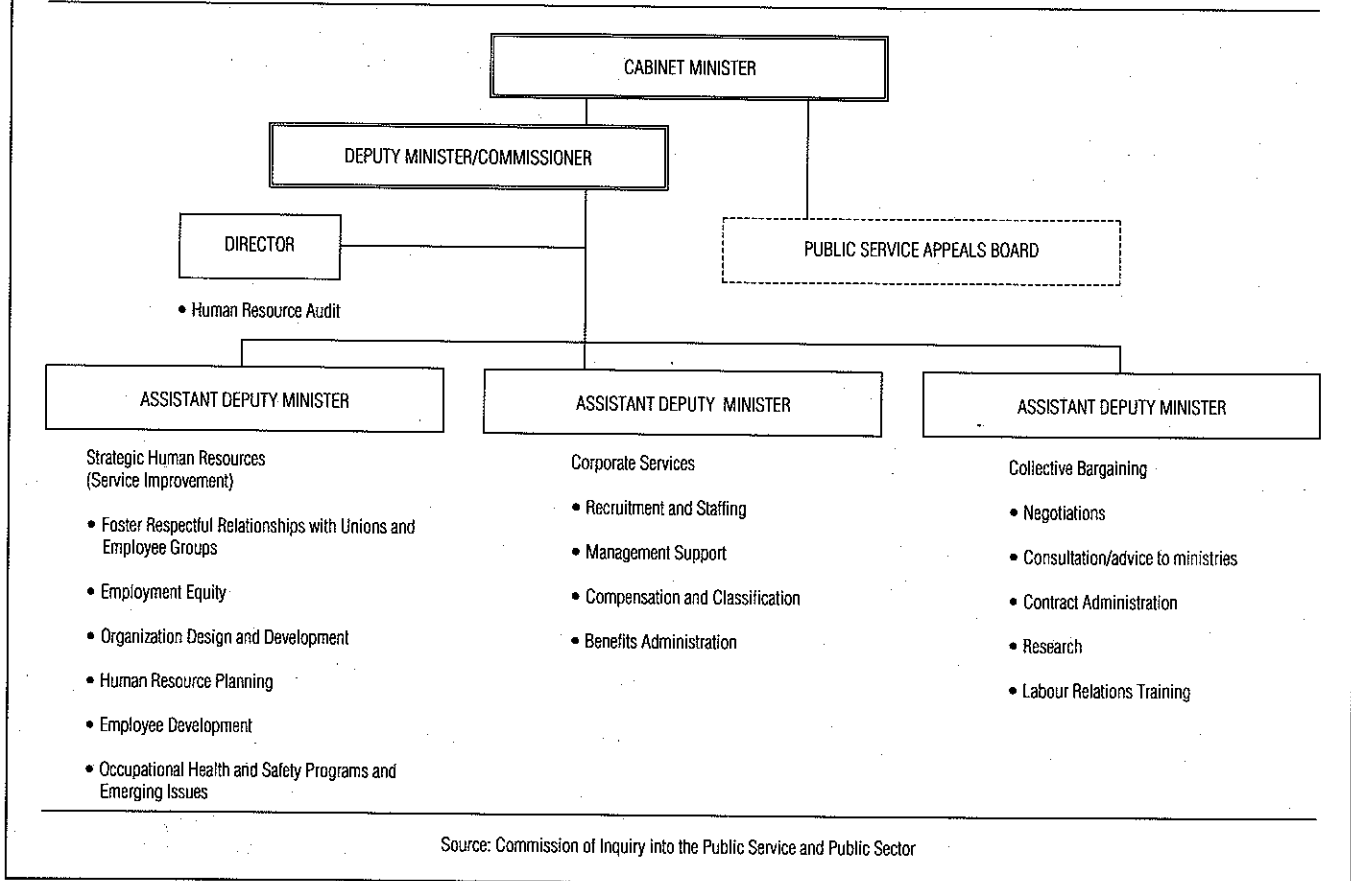
Designing and Staffing the New Central Human Resource Agency to be Called, 'The Public Service Employee Relations Commission'

The structure of the new agency should include a commissioner who is able to direct its functioning in a manner that is congruent with progressive and effective organizational principles. Its structure should ensure close links with ministry personnel staff. In working with line ministries and public service unions, a consultative approach on various human resource matters is recommended by the commission. Additionally, the new agency must have the resources to monitor line ministries' compliance with government personnel policy as well as the authority to compel changes to personnel practices should this be warranted.

The suggested organization chart, Figure 13, was developed in consultation with senior management personnel in government.

Detailed draft organization charts are found as appendix ii at the back of this report.

FIGURE 13 - PROPOSED MODEL FOR HUMAN RESOURCES MANAGEMENT
THE BRITISH COLUMBIA PUBLIC SERVICE



The commission's recommendations for a renewed human resource agency include the transfer of existing staff of GPSD to the new agency.

Figure 14 on the following page summarizes the current resources available throughout government that may be reallocated to accommodate the establishment of the agency. The commission believes there may be human resource people in ministries whose skills could be more efficiently used in the new central agency.

An assessment of all human resource personnel in ministries should be undertaken with the objective of ensuring that these resources are not performing duplicate work and they are efficiently deployed across the BC public service.

The creation of a new central agency will have an impact upon existing ministry operations. There will be opportunities for combining existing ministries' personnel offices in small communities.

FIGURE 14 - HUMAN RESOURCES STAFF AND EMPLOYEES BY MINISTRY

MINISTRY	TOTAL HUMAN RESOURCE POSITIONS (FTEs)*	TOTAL EMPLOYEES	EMPLOYEES PER HUMAN RESOURCE FTE **
Aboriginal Affairs	4.0	91	22.8
Advanced Education	7.0	370	52.9
Agriculture	7.1	504	71.0
Attorney General	50.7	6,216	122.6
Economic Development	13.2	652	49.4
Education	9.5	441	46.4
Energy, Mines & Petroleum Resources	7.0	463	66.1
Environment, Lands & Parks	27.0	2,304	85.3
Finance & Corporate Relations	16.0	1,319	82.4
Forests	70.2	4,382	62.4
Government Services***	19.6	903	46.1
Health	81.5	5,607	68.8
Labour & Consumer Services	7.0	358	51.1
Liquor Distribution Branch	36.3	3,386	93.3
Municipal Affairs	9.0	609	67.7
Social Services	88.3	4,935	55.9
Tourism	4.5	352	78.2
Transportation & Highways	57.0	2,869	50.3
Women's Equality	4.0	66	16.5
ALL MINISTRIES	518.9	35,827	69.1
Government Personnel Services Division	85.0		
TOTAL	603.9	35,827	59.3

*These are full-time equivalent positions, not necessarily 'approved' Human Resource FTEs.

**Comparison of ministries can be misleading as some ministry Human Resource departments serve additional non PSA employees (e.g., boards, commissions) and the range of human resource services provided varies considerably among ministries.

***Government Services includes Premier's Office.

Notes: Several organizations not included.

(BC Mental Health Society, Glendale, Auditor General, Ombudsman, Legislative Assembly, Commission on Resources and Environment)

Data effective November, 1992.

Source: Commission of Inquiry into the Public Service and Public Sector

The ratio of employees to human resource positions in an enterprise vary, depending on the industry. In the resource sector, the ratio is higher than in the service sector. The commission was not able to obtain any data on human resource versus operational employee ratios for other public services.

The above figures are provided for information purposes only. Figure 14 demonstrates the difference between providing human resource personnel in a small ministry versus a large ministry. The new PSERC should review this issue with all ministries in an effort to ensure efficient utilization of all human resource personnel.

Human Resource Information Systems

One of the greatest weaknesses of present human resource management in government is the absence of accessible information to guide strategic decision making and resource allocation. The commission experienced this first hand during the course of its inquiry when it sought data on such specific issues as appointment activity by ministry, classification information, grievance arbitration activity and employee health statistics.

One of the major responsibilities of the new central agency is to work with the line ministries to develop a service-wide information system that enhances the ability of line managers to do productive human resource planning. Basic information such as turnover rates, sick leave statistics, the training profiles of employees, the monitoring of employment and other equity related initiatives must all be captured by a state-of-the-art information management system. This information will enable line managers to make informed decisions regarding new employment initiatives and progressive personnel practices.

Routine personnel information on such matters as pension and benefit entitlement can also be made accessible to all public service employees through proper systems design.

Government and Treasury Board also require accurate information on public service work force activities for budget planning purposes.

THE PUBLIC SERVICE ACT

The commission has prepared a draft of a revised and renewed Public Service Act for the consideration of government. This proposed act is found as Appendix i.

This draft bill has been prepared with the assistance of Legislative Counsel in the Ministry of the Attorney-General and after extensive discussion on its principles with government, public service unions and GPSD.

The draft act has several features which distinguish it from its predecessor, PSA but it also continues many of its basic principles. It attempts to put the issues addressed by the commission's findings in legislative form where it is appropriate to do so.

Part one of the draft act establishes its purposes and sets out a framework for consultation on the application of matters that determine merit and on the new regulations.

Part two establishes a new Public Service Employee Relations Commission (PSERC) to replace the existing GPSD. The commission would have a broad range of responsibilities beyond those contained in the present PSA and explicit statutory authority to ensure that it could meet those responsibilities.

Part three reforms the process of appointment to the public service and endeavours to correct some of the existing problems as identified in the commission's report.

The merit principle and the factors of merit are confirmed. Regulations, policies and procedures will facilitate promotion of employment equity and career development.

Part four of the draft act creates a new Public Service Appeal Board to replace the existing PSC. Notably, the draft act gives the appeal board authority to directly appoint a candidate where a competition has violated the application of the merit principle.

Part five contains a number of miscellaneous provisions of which the most important is the power to make regulations on a broad range of issues affecting human resource management in the public service.

The current act allows the minister responsible for GPSD to issue 'directives' which are, in effect, employer policies. The commission has found that these directives are not always adhered to within the public service and it is our view that the government needs the capacity to ensure that certain central human resource policies have enhanced legal authority.

In the draft act, the regulations cannot override a valid and legal provision in a public service collective agreement, a protection that is also contained in the present PSA in respect of directives.

There was a high level of agreement among all of the parties - government, deputy ministers and personnel directors, unions, management representatives - on most of the elements of the proposed act. The commission believes that the proposed act meets the test of reform and revitalization of the public service.

Therefore, the commission recommends that:

- 1 The government adopt the draft Public Service Act prepared by the commission.

The purposes of the draft act are to:

- a. facilitate the provision of service to the public in a manner that is responsive to changing public requirements
 - b. recruit and develop a well qualified and efficient public service, representative of the diversity of the people of BC
 - c. encourage the training and development of employees to foster career development and advancement
 - d. encourage creativity and initiative among employees
 - e. promote harmonious relations with the government and employees within the public service.
- 2 The responsibilities of the proposed PSERC for personnel management in the public service include, but not be limited to, the following:
 - a. facilitate the provision of service to the public in a manner that is responsive to changing public requirements
 - b. providing direction, advice or assistance to ministries in the conduct of personnel policies, standards, regulations and procedures
 - c. recruiting, selecting and appointing, or providing for the recruitment, selection and appointment of persons to or within the public service
 - d. developing, providing, assisting with or coordinating, staff training, educational and career development programs
 - e. developing, establishing and maintaining evaluation and classification plans
 - f. acting as bargaining agent for the government in accordance with section 3 of the PSLRA
 - g. developing, establishing and maintaining occupational health and safety programs
 - h. developing and implementing employment equity policies and programs
 - i. conducting studies and investigations respecting staff utilization
 - j. carrying out research on compensation and working conditions
 - k. developing and implementing mechanisms to ensure effective human resource planning and organizational structures

- l. *developing, implementing and maintaining a process to monitor, audit and evaluate delegations under section 6 to ensure compliance with this act and the regulations*
 - m. *establishing and maintaining a personnel management information system.*
- 3 *The government develop central core regulations subsequent to the adoption of the proposed Public Service Act.*
- The matters to be developed by regulation include:
- recruitment, selection and appointment of staff including standards and procedures respecting advertising vacancies and selecting who may apply for those vacancies
 - probation periods for employees who are appointed to positions in the public service
 - health and safety standards for employees
 - terms and conditions of employment
 - job evaluation and classification
 - standards of employee conduct
 - all matters respecting discipline, suspension and dismissal of employees
 - monitoring and auditing of all personnel functions.
- 4 *The factors of merit contained in the present PSA be continued in the proposed new Public Service Act and appointments to the public service be based on the principle of merit.*
 - 5 *Regulations, policies and procedures with respect to recruitment, selection and promotion shall facilitate:*
 - a. *opportunities for external recruitment and internal advancement to develop a public service representative of the diversity of the people of BC, and*
 - b. *the long term career development and advancement of employees appointed under this act.*

However, flexibility is required to develop certain policies and administrative procedures by ministerial directive.

- 6 The working group comprised of representatives from government, public service unions and management employees, established following the Public Service Forum, develop a permanent Joint Council for ongoing consultation on public service policy issues, the application of matters that determine merit and on the new regulations. When the Joint Council consultation process is developed, it should be recommended to government as a replacement for Section 4 of the proposed act.
- 7 The government implement the revised system for appeal of public service job competitions described in the proposed new Public Service Act.

The commission suggests the following features be included in the design of the new appeal system:

- a. it shall be renamed the Public Service Appeal Board

- b. it shall be comprised of members appointed by the Lieutenant Governor in Council (LGIC)
- c. regulations governing the workings of the appeal board shall be set by the LGIC
- d. the appeal board shall have the following powers:
- i. to dismiss an appeal
 - ii. to direct that an appointment or proposed appointment be rescinded or reconsidered
 - iii. direct that an appellant be appointed to position.
- e. appointments to auxiliary positions will not be subject to appeal
- f. auxiliary employees should have full appeal rights for regular positions in the public service for which they have applied
- g. decisions of the appeal board will be final and binding
- 8 Members of the Public Service Appeal Board should be appointed following consultation with the parties to be affected by the decisions of the new appeal board.

COMMENT

Confidence in the new appeal procedure and the outcomes will be enhanced by support of the parties for respected neutral members.

- 9 *Appointments to and from within the public service be the product of a fair and equitable selection process applied consistently across ministries, designed to evaluate eligible applicants.*

All applicants will have the right to inquire and to receive information regarding their performance at an interview from the chair of the selection panel.

- 10 *The government adopt a competency-based approach to selection of staff that places greater emphasis on recognition of an applicants' potential skill development and on the real tasks to be performed in jobs, rather than placing undue emphasis on credentials.*

- 11 *A task force comprised of representatives of the line ministries, the proposed PSERC and the BCGEU be formed forthwith to develop a comprehensive recruitment and employment strategy for administrative support staff.*

- 12 *Primary responsibility for executive and senior management level recruitment be assigned to the proposed PSERC working in conjunction with line ministries.*

- 13 *The proposed PSERC, in conjunction with line ministries, develop a provincewide system for the advertisement of job vacancies and for the receipt of applications from employees as well as from the public for non-specific government employment.*

14 The proposed PSERC establish a management services support function with specific responsibility for management development including:

- a. consultation with representatives of management employees on terms and conditions of employment**
- b. career planning**
- c. development of programs that facilitate career movement of these employees, particularly between staff and line functions**
- d. leadership and management development training in cooperation with the Centre for Executive and Management Development.**

15 The government, in consultation with excluded employees, develop a confidential redress process for hearing and resolution of complaints and disputes concerning terms and conditions of employment for employees excluded from all bargaining units or from the application of collective agreements.

CONTRACTING IN THE PUBLIC SERVICE

Introduction

The commission's review focused primarily on the human resource management implications of contracting for the provision of services. The review of contracts is divided into two areas: the use of personal and service contracts including systems contracting, and commercial and consultant contracting.

Between the years 1985 and 1993 government's use of 'consultant' contracted services grew by 322 per cent from \$120 million to \$507 million. At the same time, public service salary expenditures grew by about 36 per cent, or from \$1.1 billion to \$1.5 billion. As a proportion of total provincial expenditure, this form of contracting grew from 1.5 per cent in 1985 to almost 3 per cent in 1993. Salaries, on the other hand, declined from 17 per cent of the provincial expenditure in 1985 to 9.5 per cent in 1993.

A true representation of total government expenditure on services requires combining monies spent on salaries with those spent on contracted services. The result, between 1985 and 1993, shows that total government expenditure on consultant contracting plus employee compensation in the period increased by more than 70 per cent even though the salary proportion of that total shrank.

The growth in the number of consultant and personal service contracts in the public service is primarily a result of the following factors:

- successive provincial governments have held an ideological preference for the use of private contracting over provision of services by employees

- the FTE control mechanism established by the Financial Administration Act has meant that ministries had money in their budgets but no authorization to hire staff even when it was the most cost effective means of providing the service
- recruitment procedures within the public service are time consuming, with the result that hiring a public service employee often is not a realistic option for responding to a public service initiative in a timely manner
- in the systems field, an additional issue was raised by the availability of three different staffing models.

One issue that emerged from the commission's review on contracting was the existence of contractors who were, in fact and in law, actual employees of the provincial government. The commission's review concluded that there were potentially 1,100 such individuals under 'contract' to the government in general government operations (including information systems). Aside from masking the actual size of the public service, the creation and maintenance of such contract relationships are violations of the PSA, the PSLRA and several collective agreements.

With respect to commercial and consultant contractors, the commission identified a weakness in policies, standards and procedures governing questions of whether or not to contract, how to award a contract and the subsequent administration of contracts. Although the Government Management Operating Manual (GMOP) contains policies which call for cost/benefit analyses when making certain contracting decisions, these policies are seldom followed. Consequently, for the majority of contract decisions, there is no assessment of value earned for money paid.

The commission has concluded that there are some instances where lawful contracting does represent the best method to deliver public services. In others, the recruitment and/or retention of direct government employees is best. In both cases the most important factor is that the decision be made in the public interest and measured against sound standards. Such decisions should be non-ideological and should permit an informed assessment of the effectiveness and efficiency of the alternate service delivery models of contracting and employment.

The Shadow Work Force

Project Overview

The commission established a process to review the status of individuals in a contractual relationship with the provincial government, the BC Buildings Corporation (BCBC), BC Systems Corporation (BCSC) and the BC Housing Management Corporation (BCHMC) in order to determine whether the contractual relationships were legitimate or whether, in fact and in law, the relationships were employment relationships.

Description of the Contracting Issue

In its independent financial review for the Ministry of Finance and Corporate Relations in 1992, Peat Marwick identified an estimated 1,446 FTE contractors who were, in fact and in law, actually employees of the government. One of the reasons that the government uses contractors instead of employees is because the FTE system established under the Financial Administration Act controls the number of employees that a ministry can hire. The process for increasing the allowable number of employees is cumbersome, requiring approval by Treasury Board and then the Lieutenant-Governor in Council. In contrast, there are no limits placed on the number of contractors a ministry can hire. In its interim report, the commission recommended altering the FTE control system to remove the incentive to create illegal contract relationships.

Determination of the appropriate status of contractors is a question of law. Some of the tests used to evaluate bona fide employee status include:

- being compensated through the government's payroll
- having the use of a government office
- having the use of government equipment
- using government business cards.

Commission Process

In March 1992, the commission entered into an agreement with the BCGEU and the government to have the commission adjudicate disputes regarding the status of contractors alleged to be, legally, government employees. Similar agreements were later entered into with the government and other public service unions, namely the PEA and BCNU; and with the BCGEU and each of BCBC, BCHMC and

BCSC. The commission also reviewed contractors in excluded positions.

Representatives from the unions and GPSD formed teams to investigate all contracts where there were questions about the legal status of a worker. The teams met with the commission approximately 50 times and the commission facilitated approximately 250 resolutions to date. Most of these resolutions related to employee status, but some related to issues of exclusion from the collective agreement under section 12 of PSLRA. The commission also received over 80 inquiries from individual contractors regarding their status.

Where the parties agreed on the future employee status of an individual, but disagreed on the bargaining unit status, the commission resolved the disputes (at least on a temporary basis). Contractors who were to become employees were offered positions in government consistent with the duration of their contract term on a continuous or consecutive basis. The offer usually designated regular status for individuals who had been on contract for over three years and auxiliary status for individuals who had been on contract for less than three years. The resolution also included agreement on the appropriate payment of back dues to the BCGEU by the government, consistent with arbitral jurisprudence in this area.

The commission's review process is almost complete in the non-systems operations of government. All ministries have been reviewed except Agriculture and Fisheries, district operations in the Ministry of Forests, and parts of the Ministry of Finance (Office of the Controller General, Financial Institutions Commission and Treasury Board Secretariat). The government and the BCGEU have agreed to complete these reviews.

A review process for the contractors working in the Information Systems (IS) field in government was undertaken in parallel to the general review process that covered all contractors working for the BC public service.

From July, 1992 to the end of April, 1993, the commission held more than 120 meetings with government IS managers and employees, BCSC managers, employees and board members, private sector systems companies, employees of contractors and representatives of the Treasury Board and Crown Corporations Secretariat and of the BC Trade and Development Corporation to discuss the range of IS issues that had been identified. It held public meetings in Victoria and Vancouver attended by more than 360 people from the IS community.

The commission established a working committee comprised of: David Hughes, Vice President of Sierra Systems Ltd. and Secretary of the Information Technology Association of Canada - BC; Bill Palm, Vice President of Canadian Airlines International; and Bob Lees, Director of Information Systems and Services of MacMillan Bloedel and certain government and BCSC managers. The purpose of this committee was to provide the commission with insight into the significant information systems management issues that affect large enterprises in both the public and private sectors.

The commission worked with a committee of directors from ministry information systems operations and with the BCGEU, as bargaining agent for both BCSC and ministry systems employees, to establish a process for reviewing the use of contractors within ministry IS operations. This review had two purposes: to examine IS contracts that raised questions of employee status; and, to review the effectiveness of the use of contractors for some operations of government where contractors performed the same work as employees - regardless of their legal status.

The commission received about 40 submissions on this issue.

Commission Findings

The commission found that many contractors are, probably, legally employees of government or the other public sector organizations to which they are under contract. Their contracts are for successive periods of up to seven years. Many have ministry business cards, are listed in the government phone directories, use government equipment and work out of government offices.

The use of contractors sometimes circumvents normal hiring practices and procedures. In some instances contractors respond to advertisements, are later converted to auxiliary status and are then successful for a posting under the PSA, all for the same job.

Contracted employees are often denied unemployment insurance benefits when their contracts are terminated although Revenue Canada treats their earnings as employment earnings for purposes of assessing income tax and Canada Pension Plan contributions. These facts have persuaded the commission that many contractors to government are, in all likelihood, 'shadow' employees.

The commission was not required to finally adjudicate any disputes. The parties approached the issue on the basis of the best operational impact. Of all the non-systems contracts reviewed by the commission, approximately 13.4 per cent were found to be employment relationships. Government's use of contractors has caused considerable conflict with two of its unions, the BCGEU and the PEA. That conflict has led to a number of grievance and arbitration proceedings at great cost to the government (and to the public) for legal counsel, staff time and arbitrators fees.

Many public service contractors have flexible working arrangements like at-home offices, part-time and flex time. The commission's research indicated that despite the many costs and conflicts associated with government's use of contractors, the practice has proved that progressive flexible working arrangements are viable for public service workers and these practices should be reviewed by the new PSERC.

A detailed summary of the contracts reviewed by the commission are detailed in Figure 15.

Government's use of these contracts reveals deficiencies in its staffing procedures, difficulties in resolving disputes on the application of Section 12* of the PSLRA, problems arising from the FTE control mechanism and weaknesses in its overall salary structure where that structure does not reflect prevailing rates in the private sector.

Section 12 of the PSLRA requires the unions and government, as employer, to bargain exclusion of management employees from the application of collective agreements. Over the last several years, the government has sought an increasing number of exclusions. To some degree, the unions have resisted. The government, in some cases, has acted unilaterally to exclude employees in contravention of the PSLRA and collective agreements. The result has been a debilitating and frustrating process for all parties. The frustration has increased the incentive for management to use contract employees to avoid a legal confrontation with unions.

FIGURE 15 - PUBLIC SERVICE ACT EMPLOYEES AND SERVICE CONTRACT REVIEW - NON SYSTEMS¹

MINISTRY	PSA EMPLOYEES ⁶		#FTEs 92-93 APPROVED		SERVICE CONTRACT REVIEW ⁷ OUTCOME		
	#	%	#	%	TOTAL	EMPLOYEE	OTHER ²
DIRECTLY WITHIN MINISTRY							
Aboriginal Affairs	103	0.3%	80	0.3%	48	21	27
Advanced Education	397	1.0%	332	1.1%	61	45	16
Agriculture	501	1.3%	448	1.5%	20	review in progress	
Attorney General ⁵	9,761	25.0%	5,692	19.3%	962	232	730
Economic Development	636	1.6%	629	2.1%	228	53	175
Education	448	1.1%	406	1.4%	1,143	13	1,130
Energy, Mines & Petroleum	462	1.2%	391	1.3%	108	25	83
Environ, Lands & Parks	2,340	6.0%	2,337	7.9%	292	16	276
Finance & Corporate Relations	1,322	3.4%	994	3.4%	33	0	33
Forests ⁴	4,391	11.2%	4,205	14.2%	1,020	80	940
Government Services	852	2.2%	292	1.0%	110	6	104
Health	5,763	14.8%	4,946	16.7%	167	63	104
Labour & Consumer Services	376	1.0%	294	1.0%	35	1	34
Municipal Affairs	610	1.6%	568	1.9%	48	2	46
Premier's Office	69	0.2%	70	0.2%	8	7	1
Social Services	4,985	12.8%	4,579	15.5%	34	11	23
Tourism	354	0.9%	327	1.1%	54	11	43
Transportation & Highways	2,861	7.3%	2,741	9.3%	210	34	176
Women's Equality	75	0.2%	65	0.2%	43	13	30
Total	36,306	93.0%	29,396	99.5%	4,624	633	3,971
REPORTING TO LEGISLATURE							
Legislative Library	34	0.1%	N/A	N/A	0	0	0
Auditor General	96	0.2%	90	0.3%	0	0	0
Commission on Resources and Environment	16	0.0%	18	0.1%	0	0	0
Ombudsman	47	0.1%	43	0.1%	0	0	0
Total	193	0.4%	151	0.5%	0	0	0
SOCIETIES WITH PSA EMPLOYEES							
BC Mental Health	1,850	4.8%	N/A	N/A	0	0	0
Glendale Lodge, Tillicum and Veterans' Care Society, Oak Bay Lodge Society	709	1.8%	N/A	N/A	28	13	15
Total	2,559	6.6%	N/A	N/A	28	13	15
TOTAL	39,058	100.0%	29,547	100.0%	4,652	646 ³	3,986

1 The investigation of contractor status is not complete. Data re actual conversions from contractor to employee are not available. The table indicates cases in which employee status has been or will be offered, but not necessarily accepted by contractor.

2 'Other' includes bona fide contractor, not BCGEU jurisdiction, or to be reviewed by another ministry.

3 This does not include an estimated 450 contractors in information systems.

4 900 reviews underway.

5 Attorney General includes Liquor Distribution Branch.

6 PSA employees as of December, 1992.

7 Data for the service contract review effective May 6, 1993.

An 'FTE' is not the same as an 'employee'. The term Full Time Equivalent (FTE) is a measurement of the equivalent of one person working full time for one year. Two persons each working six months would be one FTE.

The number of FTEs is always lower than the number of actual persons employed during a fiscal year because of part-time, seasonal and workload variations.

Source: Government Personnel Services Division

The use of contractors creates inequities. It denies promotional opportunities to existing public service employees and access to government jobs to members of the public. Contractors receive levels of compensation for the same work that vary - either higher or lower - from those of regular public service employees. The existence of contractors who are legally

employees undermines the basic structures that make up the human resource policies of the public service. These include: the PSA, the merit principle, collective bargaining rights under PSLRA and entitlements under the Pension (Public Service) Act. All these structures were designed to ensure fairness in public service human resource practices.

The Systems Contracting Workforce

Earlier in this report, the commission identified the unique staffing challenges for IS employees. The extensive use of contractors to provide information services developed as the result of a number of features including:

- the FTE system of staffing controls established under the Financial Administration Act
- the preference of former governments for contractors over employees
- the existence of at least three alternative staffing models for staffing identical functions within ministry systems operations.

The government pays approximately \$5.2 million more for IS contract employees than it would pay if the same people were employed on the government classification scale (this includes the cost of benefits). In many cases, contractors have been trained and supervised by government employees who received lower rates of pay. In some instances, contractors supervised government employees or BCSC secondments, including providing performance reviews and other management functions.

Some companies have been established that do nothing more than supply staff to government on personal service agreements. Other larger enterprises which engage in bona fide contracting, also provide 'bodies' for government staffing needs.

Some contractors faced with conversion to government or BCSC employee status would prefer to remain contractors. Reasons for this vary, from questions of compensation and income tax status to perceptions of flexibility and independence. Other contractors believe that they are really employees and look forward to the rectification of their employee status. Contractors generally prefer the option of becoming BCSC employees over becoming government employees. This is not surprising given differences in compensation, training, and association with a systems-based organization.

The government's IS directors believe that some use of bona fide contractors to staff ministry systems operations is not as effective a use of resources as would be achieved using employees to perform those functions. In some instances, the use of contractors detracts from operational flexibility. It is difficult for managers to reassign a contractor to other work that is more pressing or more important to the particular ministry's priorities.

Approximately 940 systems contractors working in government ministries were reviewed. The government and BCGEU tentatively agree that 380 of these systems contractors are bona fide contractors, and that this is an appropriate use of contract staff.

The government and the union also agree that approximately 200 contractors are legally employees of government on application of conventional legal tests.

The BCGEU asserts that approximately 250 more contractors or employees of contractors, are legally employees. The government does not agree with this assertion; but the government's IS directors do believe that the use of these 250 contractors provides government with lower value for money relative to the use of crown employees to perform the same functions.

The government has advised the commission that it intends to complete the contractor review with BCGEU. Agreement on a review process has been reached by GPSD and BCGEU and this work will continue on after the commission has completed its work. This review process has led government, for the first time, to formally consider the circumstances under which it receives better value from either systems staff or from the use of contractors.

The conversion of contract employees to regular employee status is an important correction of a dysfunctional system but it must fit in with the longer term staffing model chosen for IS personnel. As well, transitional issues must be dealt with if contract employees are to be converted to regular employee status without disruption of government IS operations.

Therefore, the commission recommends that:

16 The responsibility for ensuring that ministry contracting practices be consistent with government policy and the law, and monitoring of this issue be assigned to PSERC.

17 An expedited process be established to resolve any disputes concerning the issue of employee status resulting from contracting.

18 Government complete the review process started by the commission in March 1992 with respect to the conversion of information systems and other contract employees who are deemed to be legal employees of the crown

- a. the conversion should be completed in the same manner as the shadow work force conversions**
- b. the process should be expedited**
- c. the costs of the process should be shared equally between the government and the BCGEU (or other union where relevant).**

Commercial and Consultant Contracting

Project Overview

The commission reviewed the policies and practices of the government in its use of commercial and consultant contracts to meet requirements for the delivery of public services.

For the government to ensure cost effective delivery of services, it must create comprehensive contracting guidelines that outline consistent standards for selecting contractors, contain methods to evaluate value for money and ensure compliance on the part of all ministries. The commission found that such guidelines do not currently exist. This has contributed to an inefficient use of some contracted services.

Issues Arising from Commercial and Consultant Contracting by Government

When it decides to undertake an activity, government has to determine whether to perform the functions through use of its own employees or through the purchase of services provided by others on contract. This project focused on how government makes the decision whether to use its own employees under the PSA or to use contractors.

The range of direct services to the public provided by government include: the maintenance of government revenue and expenditure functions; the provision of road and bridge maintenance; public access to government information; operation and maintenance of the provincial parks; family maintenance enforcement services; forest fire fighting; computer graphic mapping of the province and the provision of professional services by lawyers, accountants, architects and engineers.

Some of these services are provided by employees while others are provided by non-employees working under contract. Over time, there has been a tendency for government to become more of a financial and administrative organization and less of a direct provider of services. At various times, nearly all of the functions now performed under contract were performed directly by government employees.

Most commercial contracting is undertaken on a ministry by ministry basis within a policy framework established by the 1987 Government Management Operating Policy (GMOP). There is no overall coordination of contracting. Of a total of \$2.7 billion in payments spent on contracting in fiscal 1991-92, only \$444 million came under some form of central control (through the Purchasing Commission). The remaining \$2.2 billion is spent by ministries within their statutory and delegated authorities.

The commission's review found that government's administration of contracts, once they had been let, was generally conducted in a responsible manner and there were good training programs for contract administrators. The primary issue for the commission was focused on the decision whether to perform work using government resources or through contract.

Government contracting policy is found in Chapter 6 of GMOP. Section 6.1 states:

Contract management is the efficient use of outside contractors to provide works or services to the government or on its behalf.

The management decision to let a contract is made by contrasting the contracting alternative to the use of in-house resources in terms of:

- *which is the least costly alternative*
- *which way promises greater value for money*
- *which option provides the equipment, expertise etc. to do the task.*

The policies and guidelines contained in this section provide a framework for managers in:

- *letting contracts*
- *ensuring protection of the government through performance or security bonds*
- *gaining the requisite approvals for contracts*
- *monitoring contractor performance*
- *arranging contractor payment*
- *maintaining proper contract documentation.*

The current GMOP is silent on values or criteria that should be used in implementing the requirement to evaluate contracting costs on a comparative basis with in-house costs.

In practice, the requirements of GMOP to evaluate the least costly alternative are seldom, if ever, followed. The commission was advised

of one instance where a comprehensive comparison was undertaken prior to February, 1992. No other examples were provided that pre-dated that one instance.

When a ministry enters into a contract for services, it is spending money that has already been approved for expenditure by the legislature in the annual estimates. Additionally, GMOP requires that contracts in excess of \$100,000 annually must be specifically approved by Treasury Board after a review and recommendation by the Treasury Board Secretariat. However, there is no standard format for ministries to follow in any aspect of contracting, including submissions to Treasury Board.

The commission estimates that between 9,000 and 10,000 commercial and consultant contracts are signed each year. There is no central registry of these contracts. Many are of brief duration but it is not uncommon to find multi-year contracts or contracts that are essentially continuous with the same supplier. Occasionally, government capitalizes new programs through contracts and the contractor ends up as the owner of the equipment and technology necessary to provide the service.

Government commercial and consulting contracting has increased dramatically since 1985. The primary category for government commercial and consultant service contracting is Standard Object of Expenditure (STOB) 20. Review of 1985 to 1993 financial information clearly shows the increased use of professional services. Contract expenditures increased from \$120 million in 1985 to \$507 million in 1993 (a 322 per cent increase).

No framework exists within government to determine whether or not contracting generally, or specific contracts, provided good value for public expenditure.

The commission found no evidence of conflict of interest in contract administration but notes that the current policies on conflict of interest and contracting provide no guidance to those involved in the contracting process. The commission believes that contracting policy must be free of potential for public concern about possible conflicts.

With such a magnitude of expenditure on contracted services, there must be a set of standards and procedures for ministries to follow when they are deciding whether to contract.

In April 1990, an inter-ministry task force on contract management completed a report that recommended a contract management council. A council was formed in the spring of 1991. Membership included ministry and agency representatives at the assistant deputy minister level. The council is awaiting the findings of the commission to assist with its current work.

Commission Process

The commission canvassed the views of deputy ministers and senior government staff, representatives of BCGEU and PEA, the Comptroller General, staff of the Office of the Auditor General, the Purchasing Commission, the Risk Management Branch, the Economic and Revenue Policy Division of the Ministry of Finance and a number of contractors on the issue of commercial and consultant contracting.

The commission also reviewed contracting practices in other Canadian jurisdictions. No jurisdiction has a significant policy framework that was of assistance to the commission.

The commission reviewed a number of government decisions to purchase services through contract or to contract government programs through the privatization initiative. Our purpose was to use existing contracts to develop a set of criteria to guide government's future actions.

The major issue identified by these reviews was a difficulty in determining whether

contracted service provided good value for money because of the absence of significant comparative standards at the time that contracts were let. Some of the decisions to contract appear to have been sound but others did not.

There was a consensus among government managers that the process for deciding whether to provide a service using government employees or through the use of contractors required elaboration and clarity. But government managers also impressed upon the commission that any process had to be one that was capable of being applied effectively to meet the demands placed upon government to provide the service. Any process that was overly rigid or complicated in its application would serve to create a new set of problems in the name of solving older ones.

In total, the commission participated in 70 meetings and received more than 100 submissions and letters on the topic of commercial and consultant contracting by government.

Commission Findings

The commission concluded that current government policy, in place since 1987, does not adequately ensure that government receives good value for its expenditure on contracted services.

There are three principal defects in the current policy:

- the current policy is not sufficiently broad. It focuses on costs but does not address economic development, personnel and service delivery issues
- there is a lack of standards to guide ministry managers in the decision process on when to contract
- there are no mechanisms in place to ensure compliance with GMOP, 6.1.

The fact that there is no clearly understood government policy about when or how to make a decision to contract work results in variation in ministries practices in the use of contracted services.

The absence of an effective policy creates a number of negative results. If it is unclear within government as to the standards in relation to contracting, it is nearly impossible for bidders or potential bidders seeking government business to be sure of the nature of the decision making process. Given the lack of clarity to the users of contracts and to vendors under contract, it is not surprising that it is not clear to the public whether or not they are receiving good value for public services that are privately provided.

The commission found that cost/benefit analyses were rarely performed for several reasons. A primary reason was the effect of the FTE control system as established in the Financial Administration Act. The FTE system was the subject of comment in our interim report of December, 1992. Under the FTE control system, there was often money available to meet service requirements without the capacity to hire staff even where hiring was the best alternative. The commission has dealt with this problem through its recommendation for an amendment to the Financial Administration Act.

Underlying the growth of contracting was a philosophical conviction that the private sector could perform any function on behalf of government in a more cost effective manner than government could perform on its own behalf. In some instances, in the commission's review, contracting was the most cost effective method of providing services. In other instances, however, it was not the best value for taxpayer money. A simplistic preference for either contracting or direct public service provision for functions is inherently flawed.

The commission found a high level of agreement on the need for a clear, business set of contracting guidelines and standards based upon: public interest, cost effectiveness, economic development opportunities and the quality of service to the public.

The commission found that contracting has made a significant contribution to improvements in government performance in an indirect fashion. One of the features necessary for successful contracting practice is the development of 'deliverables', the definition of the goods and services that the contractor is expected to provide.

The effort required to develop 'deliverables' is, in essence, the effort to develop performance measurements. Government can use its experience with contracting to develop performance measurement standards where government services are provided directly by government employees.

CASE STUDIES

The commission has chosen four examples that are typical of the wide range of issues faced in contracting.

Example A - The Highway Sign Shop

Until 1988, the Ministry of Transportation and Highways produced its own highway traffic signs. The sign shop, located in Langford, was privatized through sale to an employee group for a five-year contract. The ministry agreed to purchase signs in declining volumes and had to pay for the signs whether it actually ordered them or not - a 'take or pay' contract.

In December 1988 (about nine months after privatization) Trans Sign Limited faced serious financial difficulties and indicated the ministry had failed to meet its obligations for orders during the first year. Steps were taken by the ministry to provide the company with additional funds. These actions became the focus of a report and recommendations by the Auditor General which identified inefficiencies resulting from the contract.

During early 1993, as the five-year contract approached an end, the ministry reviewed the cost effectiveness of the private production of signs and concluded that it was more cost effective to resume direct sign production and to locate the facility in the interior.

Example B - Forest Fire Attack Program

This program provides the initial attack force on forest fire outbreaks in the province. Since 1986, the forest service has contracted about half of the initial attack crews. The decision complied with the former government's privatization policy.

The ministry's experience revealed that contracting this work is not an appropriate way to meet the requirements of the forest service. Contractors acted as labour brokers. Wages paid to contract fire fighters are significantly lower than the wages paid to forest service employees doing the same job.

Contract fire fighters have been paid at the rate of \$8.00 per hour with few benefits except those required by statute. The hourly rate paid by government to contractors who were effectively labour brokers was considerably higher. In some cases, contractors failed to comply with the Employment Standards Act, particularly in respect of overtime payments. Forest protection work during fire season requires a great amount of overtime.

In contrast, the average starting wage for initial attack fire fighters who are directly employed by government in BC, Alberta, Ontario and the Yukon is \$14.10 per hour.

The consequence of the low wages paid by contractors has been higher overall costs to government than the cost of providing the service with its own employees. Contractor productivity, work experience and employee morale is lower; employee turnover and ministry supervision costs are higher.

The ministry concluded that the continued use of contractors undermined its accountability under the Forest Act for forest management and fire suppression operations. The ministry is seeking to increase the number of ministry staff employed on initial attack crews.

Example C - Photo Lab Contracting

In mid-1991, the Survey and Resource Mapping Branch of the Ministry of the Environment, Lands and Parks proposed to contract out photo production. When concerns were raised about the contracting, the ministry undertook a comparison within the framework of GMOP. It estimated that the cost of contracting the necessary work was less expensive than performing the work through the five government FTEs who would be affected. There was other work for each of these employees and the ministry concluded that there was no violation of the collective agreement involved.

This proposal was reviewed by Treasury Board staff who did a comprehensive analysis. The Treasury Board staff analysis disagreed with the ministry's conclusions. The contracting would have cost more than continuing to do the work through the use of government employees. The proposed contracting would also have violated the collective agreement with BCGEU. On the other hand, the proposed contract had some economic development potential that could not be achieved except through contracting. On balance, the lower cost and effectiveness of direct service provision and the relatively short time frame for making the decision led to a conclusion to retain the work within the public service.

Example D - Geographic Information Systems (GIS)

Commencing in 1981, the Survey and Resource Mapping Branch of what is now the Ministry of Environment, Lands and Parks began contracting out the production of mapping work required by the government. At the time, there was no significant private sector industry in BC capable of doing this work.

Government employees were seconded to private sector firms to train their staff, and government gave contracts to consortiums of small firms.

By 1991-92, there was a viable private sector in BC that provided mapping and related geographic information services to other users in BC and Canada and was competitive on a worldwide basis. The continued contractual relationship between these private sector firms and the government demonstrates that the BC government has confidence in the performance of these private firms.

The government itself has retained sufficient staff resources of its own to ensure that it receives quality production for value under these contracts and to be a leader in the technological advancements in geographic information technology.

Therefore, the commission recommends that:

19 The government expand the current Government Management Operating Policy to incorporate considerations of economic development, human resource, and personnel and service delivery quality into decisions regarding contracting.

20 The government establish standards for comparison of proposed contracting costs to costs of providing services using direct government resources and include these standards in section 6.1 of the Government Management Operating Policy. Standards should include consideration of the following:

- a. public safety and the public interest - an evaluation of the nature of service being reviewed, the nature of the public interest being considered and any issues affecting the safety and security of the public*
- b. cost - a comparison of the fully allocated cost of performing the service through the use of government employees versus the cost of performing the service through contracting*

If the assumptions regarding cost are based on assumptions of lower labour costs, the analysis should include the impact of increased labour costs that may be associated with unionization or other factors that change labour rates

- c. *service quality - a comparative evaluation of the quality of service provided by government as direct provider and by contracted services. This should include an analysis of the projected change in demand over the length of the contract and any reasonable likely renewal*
- d. *human resource impact - does the proposed contracting create any potential violations of the collective agreements between government and the bargaining agents representing its employees. A collective agreement violation can be a significant additional cost. Consideration shall also be given to the employment practices of the relevant contractor community to ensure that they are consistent with law and government policy*
- e. *organizational integrity - i.e.: the potential impact of contracting on the ability of the government as an organization to continue to provide cost effective services. This is particularly important where entire categories of activity are proposed to be contracted out of government and there is the potential loss of government expertise*
- f. *economic development issues - government procurement policy can make a significant contribution to the development in BC of private sector industries which add value to the BC economy beyond the value of the contracts from government. An example of this is the use of government contracting to facilitate development of a private sector mapping industry*
- g. *economic stabilization issues - i.e., the impact of government decisions to alter the way it has previously done business in communities, particularly in the non-metropolitan areas of the province*

- h. labour market and private suppliers - does government have the ability to recruit and retain the necessary skills; do those skills exist in the private sector; is there an existing private sector that can supply the service**
- i. the cost of management - i.e., the cost associated with managing employees versus the cost of managing contractors.**

COMMENT

The commission believes that use of these standards as a check list for contracts of relatively low dollar value will improve decision making and will reduce the subsequent costs associated with contract administration without impeding the effective operation of government. For more expensive contracts, or for categories of contracts within a ministry or across ministries, government should undertake a more rigorous cost comparison to ensure that the decision to contract is the best business decision.

- 21 The government apply these guidelines as a standard for evaluation of all contracts in excess of \$100,000 in value before submission to Treasury Board and that they be applied as a checklist for all contracts under \$100,000 in value.**
- 22 The government require performance measurements that are capable of being monitored during the life of each contract. A format for the application of these standards and procedures for their implementation be developed within six months from the date of this report and be publicly available to potential contractors and other parties.**
- 23 The government adopt a flexible range of options for selection of contractors ranging from open tendering to the use of eligibility lists and pre-qualification and that the criteria for selection be a part of any contracting proposal.**
- 24 Each ministry be required to outline in its own annual report the contracting policies that it followed, the names of successful contractors, the amount paid to the contractor within the fiscal year and the total value and duration of the contract, the nature of the services provided and the nature of the selection process undertaken.**

PUBLIC SERVICE LABOUR RELATIONS ACT

Project Overview

The commission reviewed current structures and practices for collective bargaining, dispute resolution and exclusion from collective bargaining under the Public Service Labour Relations Act (PSLRA) and the Labour Relations Code.

Description - The Public Service Labour Relations Act

As noted earlier, the PSLRA was adopted in 1974 as the governing statute for labour relations in the BC public service. It resulted from a review of labour relations in the public service, called 'Making Bargaining Work in British Columbia's Public Service', conducted by a commission of inquiry which was chaired by Richard Higgins and which had representation from BCGEU and the PSC. Its most significant result was the introduction of collective bargaining into the public service of BC.

At the time, collective bargaining for the private sector and for the indirect government employees in the broad public sector was (and still is today) regulated by the Labour Relations Code. However, when collective bargaining rights were first granted in the public service, the government determined that it needed separate legislation to regulate some aspects of the collective bargaining process.

Those aspects, in which the PSLRA differs from the Labour Relations Code, are described below.

Under general labour law, bargaining units are not specified in the code. However, the PSLRA divides the public service into four separate bargaining units. Nurses who are directly employed by the government are included in two bargaining units; one comprised of general nurses and one of psychiatric nurses. They are covered by a joint certification shared by the BCNU and UPN. Most licensed professionals are included in a licensed professional bargaining unit represented by the PEA and all other employees are in a residual bargaining unit represented by the BCGEU. This latter unit is, by far, the largest of the four bargaining units.

In another departure from the general labour law, the PSLRA exempts five areas from collective bargaining, as follows:

- the merit principle and its application
- all matters under the Pension (Public Service) Act
- the organization of government, ministries etc. except the effect of reductions in the size of the public service
- the application of the system of classifications or job evaluation
- procedures and methods of training.

The PSLRA also differs from the Labour Relations Code regarding the requirements necessary for job action. Under the Labour Relations Code a legal strike authorization requires a supportive vote of 50%, plus one, of voting employees. Under the PSLRA, such an authorization requires a supportive vote of 50%, plus one, of all members of the affected bargaining unit. In other words, in the public service an employee who elects not to vote at all in a strike vote is essentially voting against a strike.

The process for determining exempt positions also differs for public service organizations. The exclusion of employees from collective bargaining under the PSLRA occurs in two ways. The first method of exclusion occurs under section 12 of the act which allows for exclusions based upon the performance of confidential labour relations functions. This is similar to provisions in the general labour law.

The process for that exclusion, however, differs significantly from most other procedures under the Labour Relations Code. Instead of management deciding to exclude personnel, subject to challenge before the Labour Relations Board (LRB) by the unions, under the PSLRA, management must go before the LRB to get certain positions excluded from the agreement. Even upon exclusion, employees are still considered part of a bargaining unit, although not covered by the collective agreement.

The second type of exclusion from collective bargaining occurs under section 1(1) of the PSLRA. Section 1(1) is the definition of 'employee' under the act and specifically excludes from that definition, 31 categories of employees. In addition, one further category of employee in the elections branch is excluded from the definition of 'employee'. A number of these exclusions were contained in the original PSLRA but that list has grown considerably over the years as successive governments have added to the list. Individuals employed under the PSA, but excluded from the definition of 'employee' under the PSLRA, do not have access to collective bargaining rights. Approximately 5,000 employees of the public service fall into this category.

Commission Process

The commission commenced an extensive review of the PSLRA concurrently with its general review of the public service. The commission had over 20 meetings and received over 15 letters and submissions regarding the PSLRA.

Commission Findings

The process for dealing with exclusions has been frustrated for the last several years because of the poor relationship between the government and its unions. This has created problems in the administration of the public service. However, the BCGEU and GPSD have recently agreed upon a process for the expeditious review of differences on issues relating to exclusion from the BCGEU bargaining unit. The commission believes that this process will resolve many of the outstanding problems relating to exclusions from bargaining units.

There are only two issues that require specific comment:

Exclusions under Section 1(1)

The public service unions question the validity of the exclusions under section one of the PSLRA of certain categories of employees. They are not persuaded that there is any viable public policy reason for the continuation of certain of these statutory exclusions. However, there is an acceptance that this issue is not so pressing that it needs to be addressed before the process of public service reform is completed and before government has the benefit of advice from the new PSERC.

The commission compared the proportion of public service employees excluded from collective bargaining under the PSLRA from those excluded in other Canadian jurisdictions:

FIGURE 16 - PROVINCIAL PUBLIC SERVICE:
BARGAINING UNIT & EXCLUDED

PROVINCE	BARGAINING UNIT		EXCLUDED		TOTAL NUMBERS
	NUMBERS	%	NUMBERS	%	
British Columbia	33,997	87.0%	5,061	13.0%	39,058
Alberta	23,800	80.4%	5,800	19.6%	29,600
Saskatchewan	8,450	79.6%	2,170	20.4%	10,620
Manitoba	16,300	91.1%	1,600	8.9%	17,900
Ontario	60,000	81.6%	13,500	18.4%	73,500
Quebec	67,325	90.4%	7,175	9.6%	74,500
New Brunswick	11,425	81.3%	2,625	18.7%	14,050
Nova Scotia	9,800	84.5%	1,800	15.5%	11,600
P.E.I.	3,200	97.0%	100	3.0%	3,300
Newfoundland	32,800	93.7%	2,200	6.3%	35,000
Average other Province		86.6%		13.4%	

Notes: BC data effective Dec., 1992. Data for other provinces generally effective summer 1992. Attempts have been made to obtain comparable data from other provinces regarding the number of exclusions. However, definitions do vary among provinces and the data may not be directly comparable.

The respective sizes of the direct public services vary from one province to another depending upon which employee groups are included or are found in the broad public sector.

Source: Government Personnel Services Division

Definition of Bargaining Units

The line of demarcation between the bargaining units established under section four of the PSLRA is not always clear. Since the PSLRA was introduced in 1974, there have been occasional differences between the government, the BCGEU and the PEA over the appropriate bargaining unit for certain classifications of employees. Those differences have required determination by the LRB.

Recently, government has recognized the 'professional' nature of increasing categories of work through the extension of self-regulation. The Health Professions Act and the Social Workers Act are but two examples.

These enactments are laws of general application but they raise issues for the allocation of classifications of public service employees to bargaining units under the PSLRA. For example, prior to 1978, psychologists employed by the government were all members of the BCGEU. In 1978, the government passed the Psychologists Act and the immediate effect was that all government employed psychologists, who became licensed, fell under the certification of the PEA.

Currently, the BCGEU and the PEA are in disagreement over which bargaining unit is appropriate for certain classes of accounting employees. This dispute is at the LRB for adjudication.

The commission recognizes that the results of the LRB's decision could have broad implications for the two unions, for government and for any newly recognized professionals employed in the public service.

The commission has held several meetings with the PEA and the BCGEU in an effort to assist them to resolve this matter. The parties were unable to come to an agreed solution.

The commission has determined that it would be inappropriate to interfere with the jurisdiction of the LRB.

The PSLRA establishes limitations on bargaining rights on the one hand, but has also created bargaining structures that have endured with a high degree of stability for almost 20 years.

During the course of this review, it became clear that the government, the public service unions and representatives of management employees agreed that there are some problems with the PSLRA but no problem was so serious as to require a fundamental review of the act at this time.

Therefore, the commission recommends that:

25 The PSLRA should not be amended.

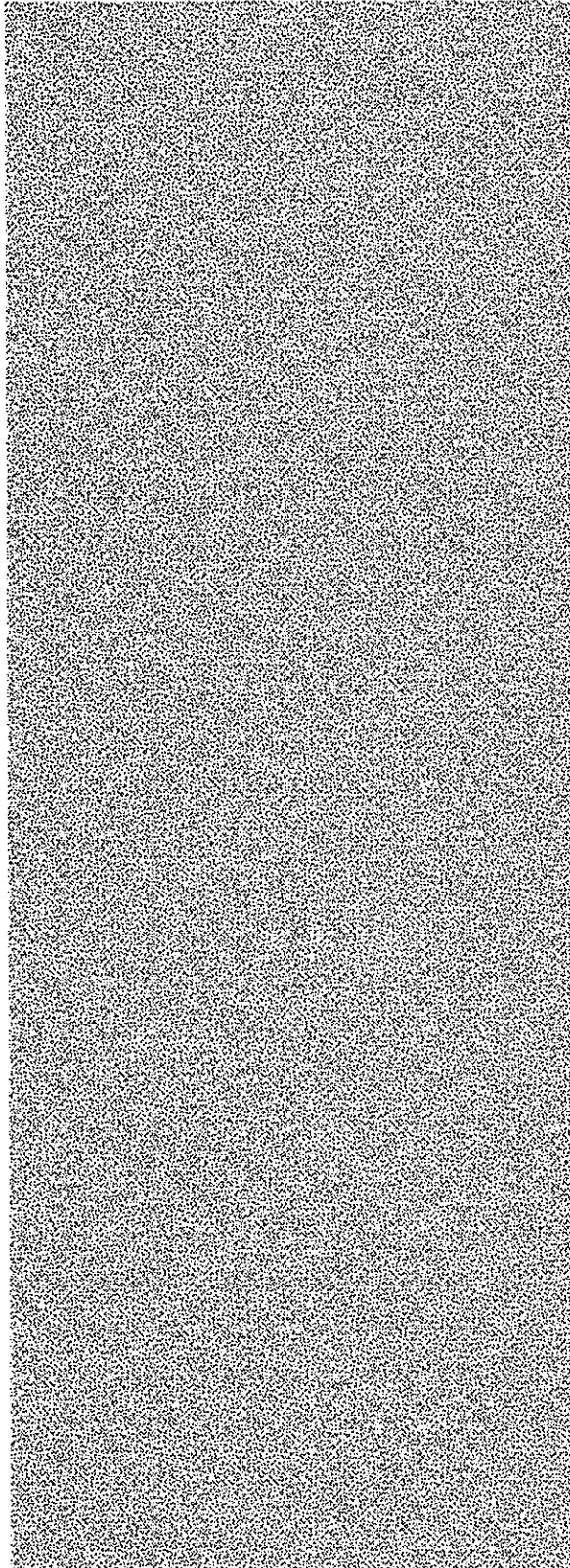
APPENDICES

CONTENTS

Draft Public Service Act.....	i
Proposed Organization Charts for the Public Service Employee Relations Commission	xvii
Cross Canada Survey of Personnel Management Arrangements in Selected Provinces	xxi
Bibliography	xxvii

APPENDIX i

DRAFT PUBLIC
SERVICE ACT



DRAFT PUBLIC SERVICE ACT

Contents

PART 1

INTRODUCTORY PROVISIONS

Section

1. Definitions
2. Purpose of Act
3. Application of Act
4. Consultation process

PART 2

PUBLIC SERVICE EMPLOYEE RELATIONS COMMISSION

5. Public Service Employee Relations Commission established
6. Delegation
7. Access to facilities and records

PART 3

APPOINTMENTS TO THE PUBLIC SERVICE

8. Appointments on merit
9. Probation
10. Exceptions to section 8
11. Inquiries
12. Deputy ministers
13. Deputy ministers' pensions
14. Declaration of deputy minister status
15. Appointment by Lieutenant Governor in Council

PART 4

PUBLIC SERVICE APPEAL BOARD

16. Public Service Appeal Board established
17. Staff
18. Appeals
19. *Inquiry Act*
20. Appeal board's decision final

PART 5

MISCELLANEOUS

21. Oaths
22. Dismissal and suspension of employees
23. Retirement

DRAFT PUBLIC SERVICE ACT

- 24. Annual report
- 25. Regulations
- 26. Transitional - deputy ministers' pensions
- 27. Repeal
- 28 - 31. Consequential Amendments
- 32. Commencement

PART 1

INTRODUCTORY PROVISIONS

Definitions

1. (1) In this Act

"appeal board" means the Public Service Appeal Board established under section 16;

"auxiliary employee" means an auxiliary employee as defined in the regulations;

"commission" means the Public Service Employee Relations Commission established under section 5 (1);

"commissioner" means the commissioner appointed under section 5 (2);

"deputy minister" means

(a) a person appointed as a deputy minister under section 12, or

(b) subject to section 14, a person who by an Act or by an order in council under that section is declared to have the status of a deputy minister;

"employee" means a person appointed under this Act other than a person appointed under section 15.

Purpose of Act

2. The purposes of this Act are to

(a) facilitate the provision of service to the public in a manner that is responsive to changing public requirements,

(b) recruit and develop a well qualified and efficient public service that is representative of the diversity of the people of British Columbia,

(c) encourage the training and development of employees to foster career development and advancement,

(d) encourage creativity and initiative among employees, and

DRAFT PUBLIC SERVICE ACT

- (e) promote harmonious relations of the government and employees and bargaining agents that represent employees in the public service.

Application of Act

- 3. Except as otherwise provided in this Act or in another Act, this Act applies
 - (a) to all ministries of the government, and
 - (b) to any board, commission, agency or organization of the government and its members or employees, to which the Lieutenant Governor in Council declares this Act, or a provision of this Act, to apply.

Consultation process

- 4. (1) The commission must consult with representatives of the employees' bargaining agents certified under the *Public Service Labour Relations Act* with respect to
 - (a) the application of the matters that determine merit under section 8 (2), and
 - (b) regulations that may affect the employees represented by the bargaining agents that the minister intends to recommend to the Lieutenant Governor in Council under section 25.
- (2) In addition, the commission may consult with employees who are not represented by the bargaining agents referred to in subsection (1) with respect to the matters referred to in that subsection that affect members of those groups.
- (3) In this section "consult" means seeking advice or an exchange of views or concerns prior to the making of a decision respecting the matters that determine merit under section 8 (2) or the making of regulations under section 25.

PART 2

PUBLIC SERVICE EMPLOYEE RELATIONS COMMISSION

Public Service Employee Relations Commission established

- 5. (1) A division of the government to be known as the Public Service Employee Relations Commission is established under the administration of the minister.

DRAFT PUBLIC SERVICE ACT

- (2) The Lieutenant Governor in Council must appoint a commissioner as the deputy minister responsible for the commission.
- (3) The commissioner is responsible for personnel management in the public service including but not limited to the following:
 - (a) advising the minister respecting personnel policies, standards, regulations and procedures;
 - (b) providing direction, advice or assistance to ministries in the conduct of personnel policies, standards, regulations and procedures;
 - (c) recruiting, selecting and appointing, or providing for the recruitment, selection and appointment of, persons to or within the public service;
 - (d) developing, providing, assisting in or coordinating staff training, educational and career development programs;
 - (e) developing, establishing and maintaining evaluation and classification plans;
 - (f) acting as bargaining agent for the government in accordance with section 3 of the *Public Service Labour Relations Act*;
 - (g) developing, establishing and maintaining occupational health and safety programs;
 - (h) developing and implementing employment equity policies and programs;
 - (i) conducting studies and investigations respecting staff utilization;
 - (j) carrying out research on compensation and working conditions;
 - (k) developing and implementing mechanisms to ensure effective human resource planning and organizational structures;
 - (l) developing, implementing and maintaining a process to monitor, audit and evaluate delegations under section 6, to ensure compliance with this Act and the regulations;
 - (m) establishing and maintaining a personnel management information system;

DRAFT PUBLIC SERVICE ACT

- (n) performing other duties assigned by the minister respecting personnel, consistent with this Act and the regulations.
- (4) Subject to this Act and the regulations and on the recommendation of the commissioner, the minister may issue policies respecting the matters referred to in subsection (3).

Delegation

- 6.** Subject to the regulations, the commissioner may
- (a) delegate any of his or her powers, duties or functions under this Act or the regulations to an employee of the commission,
 - (b) with respect to employees of a ministry or a board, commission, agency or organization to which this Act applies, delegate any of his or her powers, duties or functions under this Act or the regulations to a deputy minister or other employee of the ministry or to a member, officer or employee of the board, commission, agency or organization,
 - (c) delegate dismissal authority under section 22 (2)
 - (i) to an assistant deputy minister or an employee who has an equivalent classification level to an assistant deputy minister, and
 - (ii) to a member or officer of a board, commission, agency or organization to which this Act applies,
 - (d) establish conditions, standards or requirements for any delegation, and
 - (e) amend, replace or revoke any delegation made under this section.

Access to facilities and records

- 7.** The commissioner is entitled to access to ministries and to boards, commissions, agencies and organizations that are declared to be subject to this section under section 3 and to their records relating to personnel matters or containing information required by the commissioner to carry out his or her duties under the Act or regulations.

DRAFT PUBLIC SERVICE ACT

PART 3

APPOINTMENTS TO THE PUBLIC SERVICE

Appointments on merit

- 8.** (1) Subject to section 10, appointments to and from within the public service must
- (a) be based on the principle of merit, and
 - (b) be the result of a process designed to appraise the knowledge, skills and abilities of eligible applicants.
- (2) The matters to be considered in determining merit shall, having regard to the nature of the duties to be performed, include the applicant's education, skills, knowledge, experience, past work performance and years of continuous service in the public service.
- (3) Regulations, policies and procedures with respect to recruitment, selection and promotion shall facilitate
- (a) opportunities for external recruitment and internal advancement to develop a public service that is representative of the diversity of the people of British Columbia, and
 - (b) the long term career development and advancement of employees appointed under this Act.
- (4) Subject to the regulations, the commissioner may direct in respect of a vacancy or class of vacancies in the public service, that applicants be
- (a) limited or given preference in a manner intended to achieve employment equity objectives,
 - (b) limited to employees to encourage career development and advancement,
 - (c) limited to employees of a stated occupational group, position level or organizational unit, or
 - (d) limited to a stated geographical area or locale.

Probation

- 9.** (1) If a person who is not an employee is appointed to a position in the public service, the person shall be on probation until he or she has worked the equivalent of 6 months' full time employment.

DRAFT PUBLIC SERVICE ACT

- (2) Where the appointment is made from within the public service, a probation period in the new position not exceeding the equivalent of 6 months' full time employment may be imposed.
- (3) A deputy minister or the commissioner may reject an employee during the probation period if the deputy minister or commissioner considers that the employee is unsuitable for employment in the position to which he or she was appointed.

Exceptions to section 8

10. Subject to the regulations

- (a) section 8 (1) does not apply to an appointment that is a lateral transfer or a demotion, and
- (b) section 8 (1) (b) does not apply to the following:
 - (i) a temporary appointment of not more than 7 months in duration;
 - (ii) an appointment of an auxiliary employee;
 - (iii) a direct appointment by the commissioner in unusual or exceptional circumstances.

Inquiries

- 11.** (1) An unsuccessful applicant for appointment to the public service may apply in writing to the chair of the selection panel for the competition with respect to that appointment for a statement of the reasons why he or she has not been appointed.
- (2) The chair of the selection panel must provide the unsuccessful applicant with the statement referred to in subsection (1) as soon as possible but in any case not later than 30 days after the date on which the chair received the application of the unsuccessful applicant.

Deputy ministers

- 12.** (1) The Lieutenant Governor in Council may appoint deputy ministers, associate deputy ministers and assistant deputy ministers.
- (2) An associate deputy minister has all the powers of a deputy minister.

DRAFT PUBLIC SERVICE ACT

Deputy ministers' pension

- 13.** (1) When calculating the amount of a superannuation allowance under the *Pension (Public Service) Act* each year of service as a deputy minister must be counted as 1 1/2 years of pensionable service.
- (2) Subsection (1) does not apply
- (a) to the calculation under section 6 (5) of the *Pension (Public Service) Act*, or
- (b) to a person holding the position of acting deputy minister.

Declaration of deputy minister status

- 14.** The Lieutenant Governor in Council may declare that a person has the status of a deputy minister and may set terms and conditions of employment, including remuneration, for that person and specify which sections of this Act or the regulations apply to that person.

Appointment by Lieutenant Governor in Council

- 15.** (1) The Lieutenant Governor in Council may appoint persons the Lieutenant Governor in Council considers
- (a) will be acting in a confidential capacity to the Lieutenant Governor, Executive Council or a member of the Executive Council, or
- (b) will be appointed to a position that requires special professional, technical or administrative qualifications.
- (2) A person referred to in subsection (1) (a) or (b) may be appointed by the Lieutenant Governor in Council on terms and conditions, including remuneration, authorized by the Lieutenant Governor in Council or set out in the regulations.
- (3) This Act, other than subsections (1) and (2) and sections 21 and 25 (3), does not apply to a person employed or appointed under this section.

PART 4

PUBLIC SERVICE APPEAL BOARD

Public Service Appeal Board established

- 16.** (1) A board to be called the Public Service Appeal Board is established to hear appeals under section 18.

DRAFT PUBLIC SERVICE ACT

- (2) The appeal board shall consist of at least 3 members appointed by the Lieutenant Governor in Council, one of whom shall be designated as chair.
- (3) A member of the appeal board appointed under subsection (2) shall hold office during good behaviour for a term not exceeding 3 years and shall serve on a full or part time basis as the Lieutenant Governor in Council may order.
- (4) Where there is a tie vote on any matter before the appeal board, the decision of the chair shall be the decision of the board.
- (5) In addition to the members of the appeal board appointed under subsection (2), the chair may appoint persons as members of the appeal board for the purpose of one or more appeals.
- (6) A member of the appeal board shall be reimbursed for reasonable expenses necessarily incurred by the member in the performance of his or her duties and be paid remuneration authorized by the Lieutenant Governor in Council.

Staff

- 17. (1) The board may appoint a registrar and other employees it considers necessary for the purposes of the appeal board and may set terms and conditions of employment including remuneration for those employees.
- (2) The other provisions of this Act and the *Public Service Labour Relations Act* do not apply to the registrar or other employees appointed under subsection (1).

Appeals

- 18. (1) An employee who is an unsuccessful applicant for appointment to a vacancy in a position in the public service may appeal to the appeal board on the ground that section 8 (1) has not been complied with.
- (2) Subject to the regulations, the appeal board shall establish its own procedure for the expeditious hearing of appeals under subsection (1).

DRAFT PUBLIC SERVICE ACT

- (3) If an applicant commences an appeal under subsection (1), the appeal board shall, before hearing the appeal, inform the commissioner and the appropriate deputy minister of the particulars of it.
- (4) The appeal board may, after hearing an appeal,
 - (a) dismiss the appeal,
 - (b) direct that the appointment or the proposed appointment be rescinded and reconsidered, or
 - (c) direct that an appellant be appointed to the position taking into account the matters referred to in section 8 (1).
- (5) The appeal board may summarily dismiss an appeal under subsection (1) if it considers that the appeal is frivolous or vexatious.
- (6) A member of the appeal board may sit alone or the chair may appoint a panel consisting of 3 members to hear and decide an appeal.
- (7) This section does not apply with respect to an appointment to the public service that is made under section 10.

Inquiry Act

- 19.** For the purpose of an appeal under section 18, the members of the appeal board have the protection, privileges and powers of a commissioner under sections 12, 15 and 16 of the *Inquiry Act*.

Appeal board's decision final

- 20.** A decision or direction of the appeal board is final and binding.

PART 5

MISCELLANEOUS

Oaths

- 21.** A person appointed to the public service and a person appointed or employed under section 15 shall swear or affirm, and sign an oath in the prescribed form.

DRAFT PUBLIC SERVICE ACT

Dismissal and suspension of employees

- 22.** (1) The commissioner, a deputy minister or an employee authorized by a deputy minister may suspend an employee for just cause from the performance of his or her duties.
- (2) The commissioner, a deputy minister or an individual delegated authority under section 6 (c) may dismiss an employee for just cause.

Retirement

- 23.** Unless otherwise provided by the Lieutenant Governor in Council, retirement is compulsory for all employees who attain the age of 65 years, and the effective date of retirement shall be the first day of the month next following that in which the anniversary of the date of birth occurs.

Annual report

- 24.** The minister shall lay before the Legislative Assembly as soon as practicable, a report for the fiscal year ending March 31 respecting the work of the commission.

Regulations

- 25.** (1) On the recommendation of the minister, the Lieutenant Governor in Council may make regulations respecting government personnel management, including regulations respecting the following:
- (a) the definition of "auxiliary employee" in section 1;
 - (b) recruitment, selection and appointment of staff including standards and procedures respecting advertising vacancies and who may apply for those vacancies;
 - (c) probation periods for employees who are appointed to positions in the public service;
 - (d) health and safety of employees;
 - (e) terms and conditions of employment;
 - (f) job evaluation and classification;
 - (g) standards of employee conduct;
 - (h) all matters respecting discipline, suspension and dismissal of employees;
 - (i) monitoring and auditing of all personnel functions.

DRAFT PUBLIC SERVICE ACT

- (2) Regulations under subsection (1) may be different for different categories of employees.
- (3) The Lieutenant Governor in Council may make regulations respecting the terms and conditions of employment of persons appointed under section 15.
- (4) The Lieutenant Governor in Council may make regulations respecting appeals and inquiries to the appeal board including regulations respecting
 - (a) the manner of bringing appeals and the time limits within which they may be brought,
 - (b) time limits within which appeals must be heard and concluded, and
 - (c) all matters respecting practice, procedure and costs on appeals.
- (5) If there is a conflict between a provision of a regulation under subsection (1) or (4) and a provision in a collective agreement between the government and a bargaining agent certified under the *Public Service Labour Relations Act*, the provision in the collective agreement prevails with respect to employees covered by the collective agreement.

Transitional - deputy ministers' pensions

- 26.** Despite section 13, section 4.1 of the *Public Service Act*, S.B.C. 1985, c. 15, continues to apply with respect to a person who became a deputy minister before November 5, 1991 and to whom the section would otherwise have applied.

Repeal

- 27.** (1) Subject to subsection (2), the *Public Service Act*, S.B.C. 1985, c. 15, is repealed by regulation of the Lieutenant Governor in Council.
- (2) Section 4.1 of the *Public Service Act*, S.B.C. 1985, c. 15, shall be deemed to have been repealed on November 5, 1991.

Consequential Amendments

- 28.** *The following provisions are amended by striking out "Government Personnel Services Division" wherever it appears and substituting "Public Service Employee Relations Commission":*

DRAFT PUBLIC SERVICE ACT

- (a) *Auditor General Act*, R.S.B.C. 1979, c. 24, section 5 (5) (b);
- (b) *Freedom of Information and Protection of Privacy Act*, S.B.C. 1992, c. 61, section 41 (4) (b);
- (c) *Ombudsman Act*, R.S.B.C. 1979, c. 306, section 8 (4) (b);
- (d) *Public Service Bonding Act*, R.S.B.C. 1979, c. 345, section 4 (1);
- (e) *Public Service Labour Relations Act*, R.S.B.C. 1979, c. 346, section 1 in the definition of "division" and section 3;
- (f) *System Act*, R.S.B.C. 1979, c. 399, section 15 (2) and (3).

29. *The following provisions are amended by striking out "Public Service Commission" wherever it appears and substituting "Public Service Appeal Board":*

- (a) *British Columbia Transit Act*, R.S.B.C. 1979, c. 421, sections 6 (5) (a) and 7 (2) and (3);
- (b) *Freedom of Information and Protection of Privacy Act*, S.B.C. 1992, c. 61, Schedule 2;
- (c) *Public Service Bonding Act*, R.S.B.C. 1979, c. 345, section 3.

Pension (Public Service) Act

30. *Section 2 (1) (c.1) of the Pension (Public Service) Act, R.S.B.C. 1979, c. 318, is repealed and the following is substituted:*

- (c.1) notwithstanding paragraph (c), an assistant deputy minister and an associate deputy minister;
- (c.2) notwithstanding paragraph (c), a deputy minister unless the order appointing the deputy minister provides that this Act does not apply to that deputy minister.

Public Service Labour Relations Act

31. *Section 1 of the Public Service Labour Relations Act, R.S.B.C. 1979, c. 346, is amended in the definition of "division" by striking out "section 3 of the Public Service Act" and substituting "section 5 of the Public Service Act".*

Commencement

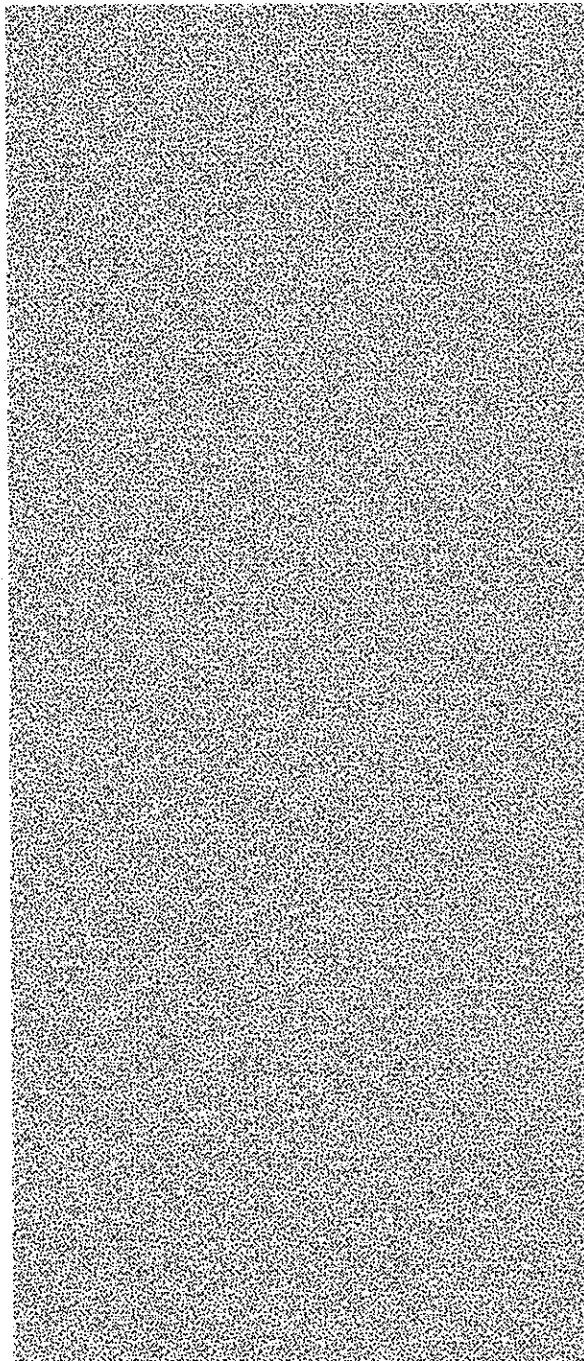
32. (1) Subject to subsection (2), this Act comes into force by regulation of the Lieutenant Governor in Council.

DRAFT PUBLIC SERVICE ACT

- (2) Sections 13 and 26 shall be deemed to have come into force on November 5, 1991 and are retroactive to the extent necessary to give them effect on and after that date.

APPENDIX ii

PROPOSED
ORGANIZATIONAL
CHARTS FOR THE
PUBLIC SERVICE
EMPLOYEE RELATIONS
COMMISSION



THE PUBLIC SERVICE EMPLOYEE RELATIONS COMMISSION STRATEGIC HUMAN RESOURCES BRANCH

ASSISTANT DEPUTY MINISTER

HUMAN RESOURCES PLANNING

1. Policy Development and Research
 - employment equity
 - workforce profiles
 - succession planning
 - career pathing
 - workforce adjustment
2. Corporate Wide Human Resource Planning
3. Consulting Services to Ministries on Human Resource Planning

ORGANIZATION DESIGN AND DEVELOPMENT

1. Corporate Organization Design
 - designing organizational structures
 - designing work structures and workflow (new program initiatives)
 - reorganizing work (downsizing programs and service delivery)
2. Partner in Innovation
 - joint labour-management
 - improved service and quality
 - developing improved labour management relationships
 - introducing new technologies
 - telecommuting
3. Consulting and advising line ministries on organizational design

EMPLOYEE DEVELOPMENT

1. On-The-Job Development Initiatives
 - transfer
 - secondment
 - developmental programs and bridging programs
 - job sharing and part-time work
2. Corporate Employee Development
 - professional development of the personnel community
 - leadership training
 - corporate initiatives (training support)
3. Consulting to Line Ministries
 - training needs identification
 - curriculum design

OCCUPATIONAL HEALTH & SAFETY PROGRAMS & EMERGING ISSUES

- occupational health and safety
- workers' compensation
- ergonomics
- employee assistance program
- rehabilitation programs
- short term indemnity plan and long term disability
- harassment

Source: Commission of Inquiry into the Public Service and Public Sector

THE PUBLIC SERVICE EMPLOYEE RELATIONS COMMISSION CORPORATE SERVICES BRANCH

ASSISTANT DEPUTY MINISTER

STAFFING AND RECRUITMENT

- policy development
- entry level recruitment
- promotion and internal movement
- external recruitment
- selection
- selection standards

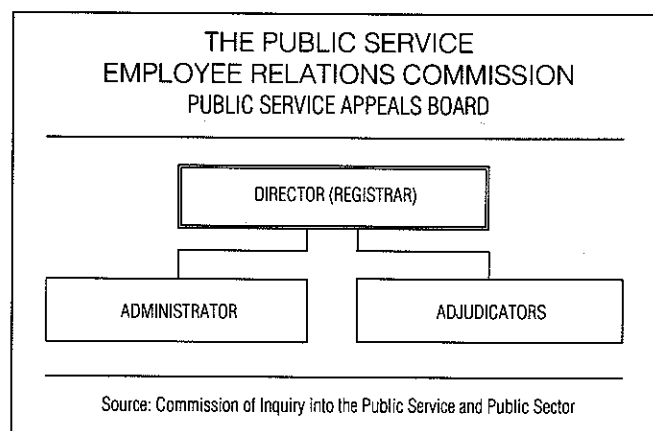
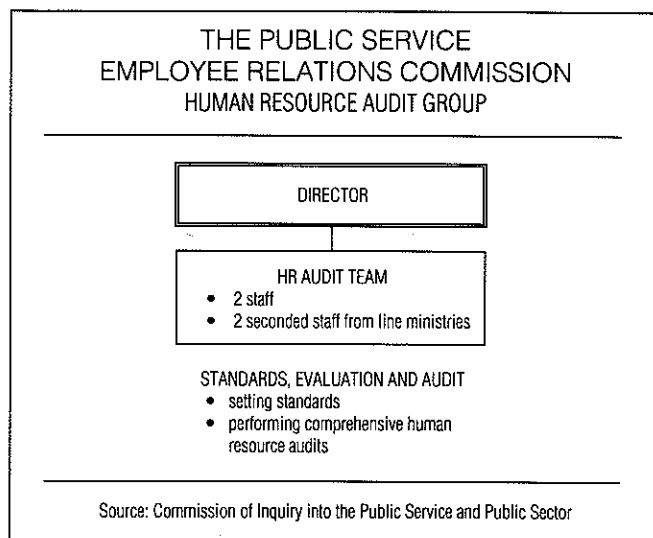
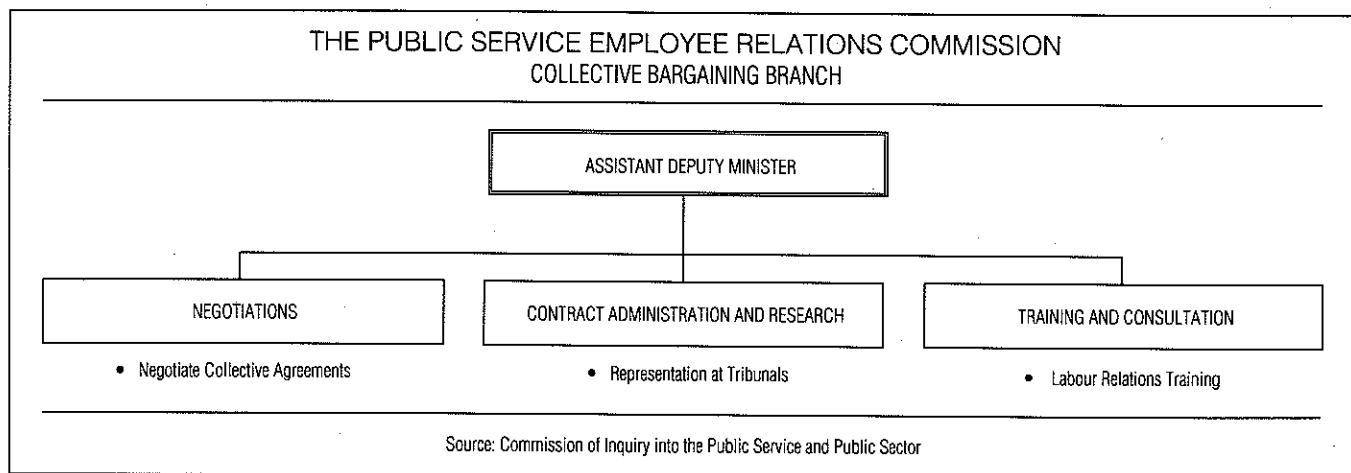
MANAGEMENT SUPPORT SERVICES

- succession planning
- executive recruitment
- executive development
- career management support

COMPENSATION AND CLASSIFICATION

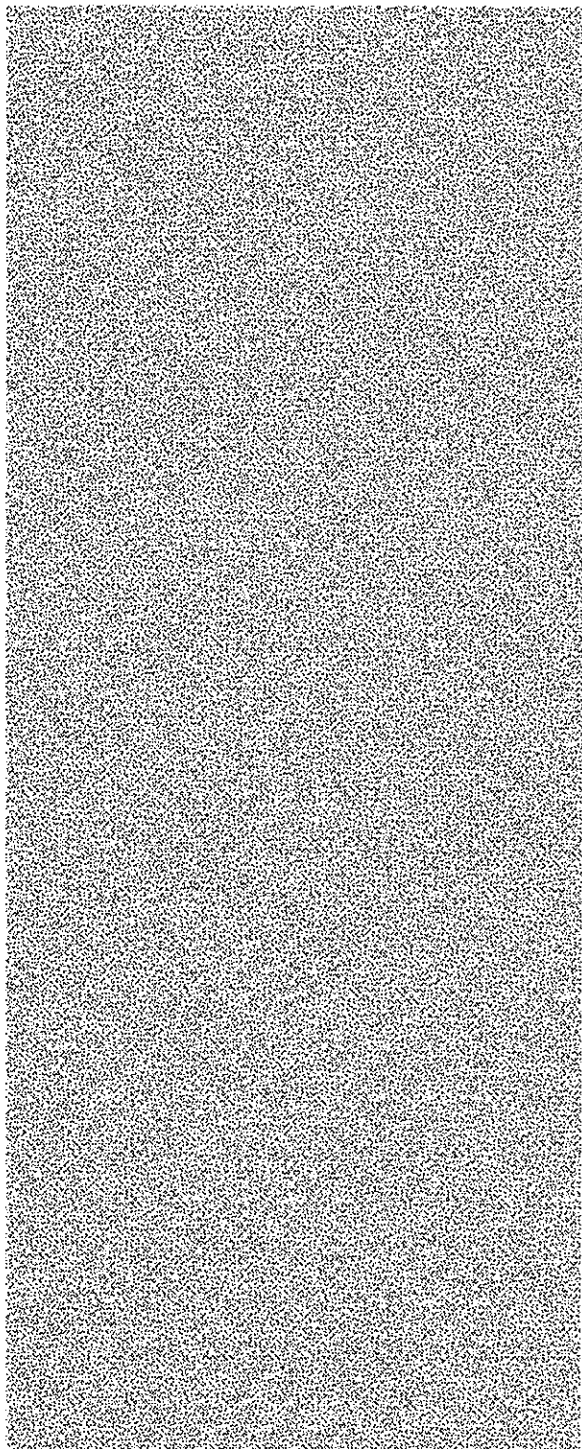
- classification standards
- terms and conditions of employment
 - OIC appointments
 - excluded staff (including management)
- benefits administration
- pay equity
- job classification training

Source: Commission of Inquiry into the Public Service and Public Sector



APPENDIX iii

CROSS CANADA SURVEY
OF PERSONNEL
MANAGEMENT
ARRANGEMENTS IN
SELECTED PROVINCES



Cross Canada Survey of Personnel Management

JURISDICTION									
Function	BC	Alberta	Saskatchewan	Manitoba	Ontario	Quebec	Nova Scotia	New Brunswick	Federal
1 EMPLOYER FOR COLLECTIVE BARGAINING	GPSD	The Personnel Administration Office (PAO) within the Public Service Commission	Public Service Commission (PSC) - also Personnel Policy Secretariat of Dept. of Finance gives mandate to all Public Sector employers	Civil Service Commission (CSC) - Labour Relations Branch Advisory role to other public sectors (ADM Labour Relations)	Management Board (MB)	Treasury Board (Conseil du Tresor)	Civil Service Commission (CSC)	Board of Management (BoM) - Deputy of Finance is also Secretary to BoM - includes Hospital & Education	Branch of Treasury Board
2 CLASSIFICATION AND COMPENSATION	GPSD set standard, however, classification is delegated to ministries.	Classification policy is broadly formulated by PAO but actual classification is delegated to departments & monitored; compensation levels are determined centrally Public Service Commission centrally	Public Service Commission centrally (Classification Division)	Classification & Staffing Branch of CSC held centrally, although looking at delegation - Compensation Services - part of ADM LR	Attempting to overhaul system, delegated to each ministry	Treasury Board	CSC centrally managed	Classification signed off by Chairman of BoM after reviewed centrally - some delegated transactions to Department level who submit monthly reports (formal delegation agreements)	Delegated to departments with central standards
3 BENEFITS POLICY AND ADMINISTRATION	GPSD	Employee Relation Div. of PAO	Public Employees Benefits Agency in Department of Finance	Compensation Services of LR Branch	Policy established centrally; Benefits Policy Branch in MB	Treasury Board	a) <u>Bargaining Unit</u> Labour Relations b) <u>Management Compensation</u> Division of CSC	Pension and Insured Benefit Branch of Dept. of Finance (BoM)	Treasury Board sets policy and it is administered by Supply and Services
4 JOB EVALUATION STANDARDS DEVELOPMENT	GPSD	Classification & Staffing Div. of PAO	Classification Division (PSC)	Classification & Staffing of HR Management Division	Compensation Program Branch of MB	Office of Human Resources (reports to Treasury Board)	Compensation Division of CSC	Compensation Policy Branch (BoM)	Treasury Board

Source: Commission of Inquiry into the Public Service and Public Sector

JURISDICTION									
Function	BC	Alberta	Saskatchewan	Manitoba	Ontario	Quebec	Nova Scotia	New Brunswick	Federal
5 PAY EQUITY	GPSD	No formal pay equity	Excluded - has gender neutral plan Bargaining unit - no current pay equity	Pay Equity is complete and no ongoing function	Compensation Program Branch of MB		Compensation Division of CSC - Pay Equity Commission in Department of Labour	HR Development Branch	Treasury Board
6 RECRUITMENT AND SELECTION	GPSD establishes policies and guidelines. Recruitment and selection delegated to Ministries.	Delegated to Departments with policy, audit and training function held centrally - executive search division done centrally (2-3 staff)	Public Service Commission centrally	Classification & Staffing Branch has delegated agreements with Departments - Centrally recruit for small departments as well as senior officers (OIC) & Personnel Officers - Executive search & Executive orientation & development (being planned)	Policies established centrally in Workforce Management & Employment Equity Branch of MB - delegated to Ministries	Office of Human Resources (reports to Treasury Board) - recently delegated to Ministries	CSC does all recruitment, develops eligibility lists. Department does selection. Selects #1 candidate from list of 10 (casuals done by Departments)	Recruitment delegated to Departments, Act authority & policy kept with BoM	Public Service Commission does recruitment of external jobs; Selection is delegated to departments.
7 EMPLOYMENT EQUITY	Draft policy; Ministries implement them	No formal employment equity program as such	Employment equity moving back to Public Service Commission from Dept. of Labour	Employment Equity Unit of Civil Service Commission reports to Deputy Minister	Work Force and Management Branch of MB	Treasury Board (must report to the legislature on employment equity each year by statute)	Responsibility within staffing division of CSC - guidelines allow affirmative action appointment	Employee Relations Branch of BoM - \$1M to fund jobs (some summer jobs are EE)	Employment Equity Act does not apply to the federal public service although there is a policy in place for employment equity. Under the Employment Equity Act, Federal contractors are required to comply.

Source: Commission of Inquiry into the Public Service and Public Sector

Cross Canada Survey of Personnel Management

JURISDICTION

Function	BC	Alberta	Saskatchewan	Manitoba	Ontario	Quebec	Nova Scotia	New Brunswick	Federal
8 TRAINING AND DEVELOPMENT	Delegated to Ministries	Staff Development & OHS Division (PAO) (larger departments also have staff) - most contracted out	Centralized to PSC (Combining Staffing & Development)	Organization & Staff Development operates on cost recovery	Done by ministries & no central group except core curriculum for senior management group	Treasury Board set policy but Ministries deliver.	Staffing Division of CSC - small staff and major departments also have staff	HR Development Branch of BoM and buy all training (1 person) - Senior Executive Dev. Program	CCMM for senior and executive managers - departments have capacity as well as SOA delivers on charge back.
9 HUMAN RESOURCE POLICY DEVELOPMENT	GPSD	Each Division does its own policy	New section called Planning and Organizational Services (Employment Equity, consulting services, organization design)	Integrated into operating branches	Each section handles own policy	Treasury Board	No HR policy branch	Policies developed by each area	Each department does work on own with some central policy.
10 REVIEW OF PERSONNEL PRACTICES	GPSD	Audit Division 3 - 4 staff on overall HR programs. Separate monitoring in each division (Class & Staffing) - have authority to remove delegation	Nothing at this time (new re-org)	Audit moving more to a complaint driven system	Ministry of Treasury & Economics handles & has guidelines on how to audit personnel	Treasury Board	Audit only in the staffing area	Ongoing studies as Civil Service Commission has audit function	PSC audits Staffing and on behalf of T.B. it also does pay and classification
11 HEALTH AND SAFETY	GPSD-policy Ministries-Implement	Staff Development & OHS	Function exists, but not major focus in central agency	No central co-ordinating function exists in the central agency	Employee Relations Branch of MB	Treasury Board has new policies	Labour Relations Division of CSC	Delegated to Departments as there is a separate Health & Safety Commission.	Department Level
12 HUMAN RIGHTS ADMINISTRATION (CODE COMPLAINTS)	Labour Relations GPSD	Majority handled by PAO and handled by particular divisions.	Labour Relations Branch in conjunction with each HR Department	Labour relations would handle if needed	Workforce Harassment Unit within Workforce Management & EE Branch of MB as an option to HR complaint.	Training provided only (modelled on Federal)	Each Division would handle their own issue	Handled by responsibility area	Handled by departments

Source: Commission of Inquiry into the Public Service and Public Sector

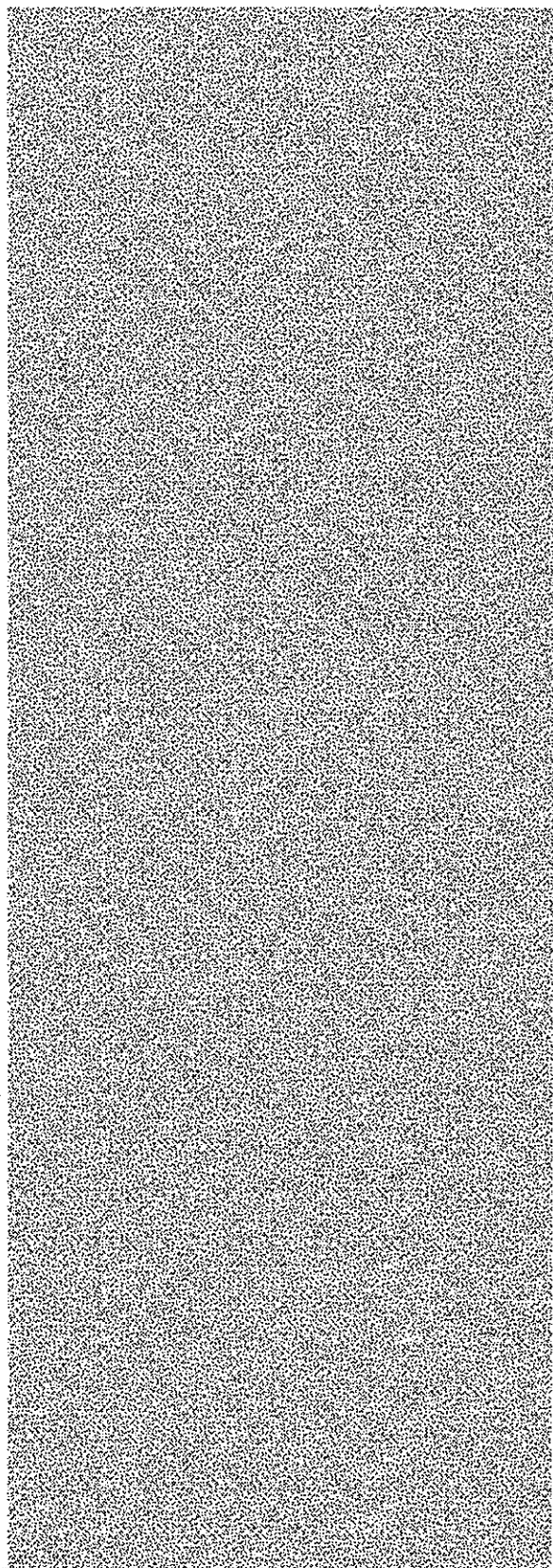
Cross Canada Survey of Personnel Management

JURISDICTION									
Function	BC	Alberta	Saskatchewan	Manitoba	Ontario	Quebec	Nova Scotia	New Brunswick	Federal
13 FTE MONITORING	GPSD	Treasury Department controls money only	Person year reporting (Dept. of Finance) - currently a control, but under review	Treasury Board	Payroll and Benefits System - monitoring rather than control. Dollars is control.	Treasury Board	Management Board through their computerized HR management system	Budget Branch of BoM.	Person year control. As of April/93 going to dollars only.
14 MANAGEMENT OF PERSONNEL INFORMATION	GPSD	Systems division in PAO and manager of HR planning	Integrated payroll & HR system.	Civil Service Commission integrated with payroll function	Payroll & Benefits only system - broader system being considered. Held at individual ministries.	Office of Human Resources	Management Board (same Deputy as CSC)	HR Information Branch developing a system	Public Service Commission and Departments
15 APPEALS	Public Service Commission	The only avenue is to the ombudsman, and there are no grievance provisions for selection or promotion for bargaining unit employees	Bargaining unit employees have appeals through grievance arbitration; management has no appeals on selection	Civil Service Appeals Board handles appeals for employees only.	The public can't appeal; grievance settlement board hears in- service appeals A tribunal exists to hear management appeals but is seldom used	Public Service Commission hears appeals, with the public having the right of enquiry.	Appeals are through grievance arbitration for unionized employees; there is no formal process for the public but they can be interviewed by the Deputy (commissioner) if they have concerns or complaints	Out of service appeals are handled through an inquiry to the Civil Service Commission which can make recommend- ations to the deputy minister but can't overturn a decision; In-service applicants have appeal rights in a system that allows appointments to be revoked	No appeal for out-of-service applicants, but they can complain and have their complaint go to investigation under the direction of the Public Service Commission. The Commission then reviews and makes recommend- ations. In- service applicants appeal to full- time appeals chair
Source: Commission of Inquiry into the Public Service and Public Sector									



APPENDIX iv

BIBLIOGRAPHY



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