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House of Representatives
Commonwealth of Pennsylvania
Harrisburg

STATE GOVERNMENT COMMITTEE
CHAIRMAN

May 15, 2017

Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

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IRRC

Dear Commissioners:

We write to express our disapproval of proposed State Civil Service Commission Regulations 61-6.

Acts 69 and 167 of 2016 were important pieces of legislation which passed the General Assembly unanimously to modernize the Civil Service hiring process and promote a process based on individual job vacancies instead of generalized applications for positions which may or may not have vacancies at the time of application. The proposed regulations are based on these Acts, yet they fail to implement the clear language of the Acts, thwarting the intent of the legislators of the General Assembly who voted to pass them. There are several problems with the proposed regulations.

First, the proposed amendment to section 95.1 of the Civil Service regulations is inadequate to implement the language of Act 167 as it retains the language that applications "shall be made in a format prescribed by the Director." Though the proposed regulations properly include the language from Act 167 that applications "shall utilize a form and method of application that is standard across departments and agencies that are under the Governor's jurisdiction," failure to remove the Director's control over this process negates the efficacy of this language. The purpose of the language was to ensure that Civil Service applications use the same method standard across departments and agencies, and there is no room for the Director's discretion in this process.

Next, the changes to section 95.20 in the proposed regulations add unnecessary language that threatens the ability of agencies to hire based on individual job vacancies. The regulations properly include the language from Act 167 that "the appointing authority shall select the method of examination" which will be used to fill positions. The regulations add language, however, which will only give this discretion to the appointing authority if "the Director determines that more than one method of examination" will fairly test individuals for these positions. The addition of this provision in the proposed regulation obscures the clear intent of Act 167 by giving the Director control instead of permitting the appointing authority the flexibility to select the method of examination that will best allow them to test and secure employees for individual job vacancies. Additionally, the regulation would add language to this section which would require agencies to reach a consensus regarding the method of examination that will be used. This language is unnecessary and burdensome and again prevents agencies from using the type of examination that will best suit their needs.

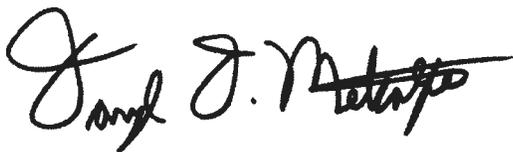
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One further problem with the proposed regulations deserves mentioning. The proposed additions in section 97.11(b), subsections 2-5, requiring at least twelve months to pass before a request for a new alternative rule can be initiated place further cumbersome restrictions on agencies that would prevent them from being able to modify their hiring procedures as they see fit.

Though the fiscal note for these regulations indicate that there will be no fiscal impact, the note states that because the regulations have not implemented various sections of Act 167, the state will be denied significant cost savings. The failure to implement section 212(D) of Act 167 regarding using a form and method of application standard across departments "results in a cost of \$2 million to \$3 million for modernization of the Commission's Information Technology System to the Commonwealth." Additionally, the failure to implement section 502 of Act 167 regarding the appointing authority selecting the method of examination for individual positions prevents estimated cost savings of \$55,800 to \$105,800.

These proposed regulations are unacceptable, and if implemented would prevent the state's Civil Service hiring process from undergoing much needed reform and modernization. They would also potentially deny the taxpayers of Pennsylvania significant cost savings. We therefore ask IRRC to disapprove these regulations in their proposed form since the provisions mentioned above run contrary to the express language and intent of the Acts on which they are based. We urge the Civil Service Commission to amend these proposed regulations before submitting them in their final form by addressing the concerns mentioned above to conform with Acts 69 and 167 of 2016. These Acts passed the General Assembly unanimously, and we, the Chairmen of the House Labor and Industry and State Government Committees, write this letter to draw your attention to the deficiencies in these regulations and the changes that must be made.

Sincerely,



Daryl D. Metcalfe, Chairman
House State Government Committee



Rob Kauffman, Chairman
House Labor & Industry Committee

DDM:pln

Cc: State Civil Service Commission
Karen Denise Wood, Esq., Assistant Counsel, State Civil Service Commission