

#3167



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA STATE POLICE
1800 ELMERTON AVENUE
HARRISBURG, PA. 17110

OFFICE OF COMMISSIONER

May 12, 2017

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RECEIVED
IRRC

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

Re: State Civil Service Commission, Proposed Regulation #61-6, Implementation of Acts 69 and 167 of 2016, IRRC Identification Number 3167.

Dear Commissioners:

On April 22, 2017, the Pennsylvania State Civil Service Commission (SCSC) had published in the Pennsylvania Bulletin, proposed regulations for Act 69 of 2016 and Act 167 of 2016. The 30-day public comment period on the proposed regulations is open from April 22, 2017 to May 22, 2017. The Pennsylvania State Police (PSP) has concerns regarding the impact the proposed regulations will have on our agency and are providing comments to the proposed regulations. Please note that SCSC did not contact us to solicit our input on these proposed regulations.

Last year, the General Assembly passed, and Governor Tom Wolf signed into law Acts 69 and 167 of 2016. These laws made very significant and important changes to the Pennsylvania Civil Service Act (the Act). In short, these statutory amendments were enacted to modernize how hiring is done through the SCSC and to improve service delivery. The changes were designed to make it easier for candidates to apply for positions, create a larger pool of candidates from which agencies could choose, and give the agencies the ability to decide the method of examinations to be used in evaluating candidates for positions. Instead of implementing the law as written, the SCSC has decided to issue proposed regulations which will undermine the intended purpose of the laws and give SCSC the ability to thwart the implementation of them.

While PSP is not considered a "Civil Service" agency, 364 of the 1,915 civilian PSP positions are Civil Service covered and we have a vested interest in having the laws implemented as written and intended. The Civil Service covered positions within the PSP are largely comprised of Information Technology, Human Resource, and Forensic job classifications.

Section 95.1. Application requirements.

Act 167 amended Section 212 (d) of the Act was amended to provide: "The commission shall enter into an agreement to utilize the form and method of an employment application that is standard across departments and agencies that are under the Governor's jurisdiction for the purpose of entrance to, or promotion in, the classified service." 71 P.S. §741.212(d).

This change to the law was made to make it easier for people to apply for state jobs by having a single website for both non-Civil Service and Civil Service positions. Feedback from applicants for PSP civilian jobs include: the dual application site is very confusing; a lack of understanding the distinction of a Civil Service position, why some job classifications are posted as Civil Service covered for some agencies and non-Civil Service for others. Utilizing a single website and application for both Civil Service and non-Civil Service positions will benefit prospective employees' search for employment opportunities within the Commonwealth of Pennsylvania.

Section 95.20. Authority to Select Method of Examination.

Act 167 amended Section 502 of the Act to allow the appointing authority (the agency), and not SCSC, to determine the method of the "examinations." The SCSC currently uses written tests or experience and training ("E&T") to evaluate candidates for positions. For example, PSP determined that it was in the best interest for the agency to use an E&T evaluation process versus a written examination for our Digital Forensic Examiner job title. By doing so, we hope to attract and hire candidates whose education and experience qualify them for consideration instead of merely how well a candidate performs on a written examination. As a hiring agency, we believe PSP is in a better position to know how candidates can best be evaluated for our specific positions. An additional deterrent is that applicants taking Civil Service written exams must schedule and travel to one of the six statewide SCSC test sites as part of the application process.

Section 97.11. Appointment Process – Use of Alternative to Rule-of-Three.

Act 69 amended Section 601 to allow expansion of hiring eligible lists other than the standard "Rule-of-Three." The regulations have onerous requirements that were not in the Act 69 amendment to Section 601.

First, the regulation requires specification of the job classification or classification series to which the alternative rule will apply. This language ignores the concept of "vacancy-based" hiring. Act 69 amended Section 602 of the Act to permit vacancy-based postings. This regulatory requirement would preclude PSP from seeking an alternative to the Rule-of-Three for vacancy-based postings.

Second, the regulation forces us to keep the alternative to the Rule-of-Three in place for at least 12 months, dissuading PSP from using an alternative to the Rule-of-Three. There will be uncertainty as to how effective the alternative rule is for these positions until it is implemented. In the event the alternative rule is not effective; the regulation would require PSP to use the alternative rule for all selections it makes in the specified classification or classification series for at least one year before a new alternate rule request for the same classification can be initiated. Therefore, we will be forced to continue using the Rule-of-Three for most or all positions instead of taking a chance on how the alternative rule may work out for filling positions.

Section 98.1 and 98.2. Vacancy-Based Hiring.

Act 69 was intended to allow agencies to fill vacant positions as they occur through "vacancy-based" job postings. This is how jobs are posted in the private sector and how PSP prefers to post our civilian employee Civil Service jobs. We specifically want to use vacancy-based postings for our most frequently posted positions, such as Information Technology, Human Resource, and Forensic job classifications.

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In addition, we believe PSP and not SCSC, are in a better position to identify which jobs should be done through vacancy-based posting. As we currently do with non-Civil Service positions such as Police Communications Operator, Maintenance Repairman, and Automotive Mechanic, we want to use vacancy-based postings for Civil Service positions but believe the regulation is an impediment to do so.

The Pennsylvania State Police appreciates the Commission's review of our comments to the proposed regulations and your consideration of assessing the effects the proposed regulations would have on all Commonwealth Civil Service positions, should the proposals be adopted as written.

Sincerely,



Colonel Tyree C. Blocker
Commissioner