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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES
HARRISBURG

2017 MAY 17 AM 8:33

OFFICE OF THE SECRETARY

717-787-5996

May 16, 2017

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

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

Dear Commissioners:

On April 22, 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 Pennsylvania Independent Regulatory Review Commission (IRRC) 30-day comment period on the proposed regulations is open from April 22 to May 22. The Department of General Services (DGS) has serious concerns regarding the impact the proposed regulations will have on us 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 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 would 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, 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.

Approximately 21 percent of DGS' positions are covered by the SCSC; including some key classifications, such as: Capitol Police Officers, DGS Leasing Coordinators, Business Enterprise

Analysts (working on Diversity efforts for contract compliance), and several classes of financial positions. Therefore, we have a significant and personal stake in ensuring the laws are implemented as written and intended. We provide the following specific examples of how the legislative changes will allow DGS to better identify and select personnel for these key positions and how the proposed regulations could negatively impact our service delivery if we are not able to do so.

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 site for both non-Civil Service and Civil Service positions. For Civil Service positions at DGS, this change would direct applicants to one website to complete an application for employment, eliminating the need to explain the lengthy, and sometimes confusing, application process of two application systems.

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." SCSC currently uses written tests or experience and training (E&T) to evaluate candidates for positions. However, DGS is in a better position to know how candidates should be evaluated for our specific positions. For example, management of our Capitol Police force, an accredited police organization, is best situated to determine the method for which new officers are evaluated. Similarly, management of the commonwealth's nearly \$1 billion capital construction portfolio requires specific accounting and financial skills, which may differ from those in more traditional governmental budgetary positions. These skills and experience are often difficult to assess through the written, mathematical operation tests currently provided by the SCSC.

In addition, written tests require candidates to take time off work and to drive to a SCSC test site for written exams. This antiquated, on-site testing process may require the applicant to seek transportation or alternate childcare arrangements, both of which can be difficult and often dissuade candidates from even applying. The department has experienced great difficulty in recruiting millennials and information technology professionals, neither of whom have shown interest in taking off-site, written examinations.

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.” With the standard Rule-of-Three, DGS had difficulty filling certain positions. A larger candidate pool could allow for candidates who are better qualified for a position. Due to the substantial decrease in the DGS complement, it is particularly important that we are able to select the most qualified candidate for a position.

In addition, 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 permits vacancy-based postings. This regulatory requirement would preclude DGS from seeking an alternative to the Rule-of-Three for vacancy-based postings. For DGS, the regulations pose a significant potential negative impact. To accomplish our mission, we must be able to select the best candidate for the job; our experience indicates that to do so, we need to consider more candidates than the Rule-of-Three allows.

Second, the regulation forces us to keep the alternative to the Rule-of-Three in place for at least 12 months. This will dissuade DGS from using an alternative to the Rule-of-Three especially when hiring for positions such as Capitol Police Officers, Real Estate and Leasing Coordinators, Business Enterprise Analysts, and Accountants. In the event the alternative Rule is not effective, the regulation would require use the alternative Rule for at least one year. Therefore, DGS could be forced to continue using the Rule-of-Three for most or all positions instead of exploring how an alternative Rule may facilitate the process for filling key positions within the department.

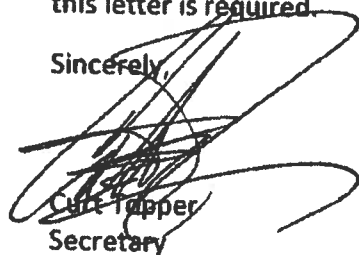
Section 98.1 and 98.2. Vacancy-Based Hiring.

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 DGS wants to post most of its job openings. We specifically want to use vacancy-based postings for as many positions as possible. In doing so, the need to mail the Availability Surveys (SCSC-98) would be eliminated saving both time and money. Additionally, vacancy-based posting allows candidates to know greater details about the position for which they are applying, ensuring they are interested in the position. This would reduce the amount of time needed to fill a position, as we would not have to continually survey a list of Civil Service candidates who have been on a list for a year or more and are no longer interested.

DGS believes that we, and not SCSC, are in a better position to know which jobs should be processed through vacancy-based posting. The department has had success in postings of this type with non-Civil Service positions such as Design and Construction Project Manager, Assistant Construction Project Manager, Associate Commodity Manager, Refrigeration/HVAC Mechanic, Housekeeper, Steamfitter, and Plumber. We want to use vacancy-based postings for Civil Service positions; however, the regulation as proposed is an impediment to doing so.

DGS appreciates the Commission's review of our comments to the proposed regulations and your consideration of the many negative impacts of the proposed regulations on this agency if adopted as written. Please contact me if any additional information on the matters addressed in this letter is required.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Curt Tupper', is written over the typed name and title.

Curt Tupper
Secretary