



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
STRAWBERRY SQUARE
HARRISBURG, PA 17128-1100

3167

THE SECRETARY

(717) 783-3680

May 18, 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

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Dear Commissioners:

On April 22, 2017, the Pennsylvania State Civil Service Commission ("SCSC") 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 to May 22. The Department of Revenue has serious concerns regarding the impact the proposed regulations will have on us and are providing comments to the same. 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 issued proposed regulations which, in the Department's view, will undermine the intent of the legislation and give SCSC the ability to thwart the implementation of the legislation.

Approximately 26% percent of Department of Revenue positions are covered by the SCSC. Therefore, we have a significant stake in having the laws implemented as written and intended. Below, the Department has provided specific examples of how the legislative changes will allow the Department to improve services; and conversely, how the proposed regulations will negatively impact our service delivery.

Section 95.1. Application requirements.

Act 167 amended Section 212 (d) of the Act 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 the Department of Revenue, this change would be important because it will be less confusing to explain the hiring process when recruiting. We recruit for both non-Civil Service and Civil Service positions, and it is confusing to candidates when explaining that there are two separate application processes for the different types of positions.

For example, when we are recruiting for interns in our Bureau of Audits' regional offices, we recruit for both Government Services Interns (GSI's) and Commonwealth Public Service Interns (CPSI's). While positions for both GSI's and CPSI's are generally filled from the same applicant pool (current college students interested in an internship in their field of study), applicants are required to apply for both positions using different application processes. Since the GSI positions are non-Civil Service, these candidates must submit their application through the Bureau of State Employment website. The CPSI positions are Civil Service and candidates must apply through the SCSC website. This is inefficient and frustrating to the applicants to require them to complete two separate applications for very similar positions available with the same employer.

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, but, only one type of examination is offered for a classification. However, the Department of Revenue is in a better position to know how candidates can best be evaluated for our specific positions. For example, for our Applications Developer positions we look for certain skill sets and knowledge of specific software. Currently, we must use the selective certification process which is time consuming and inefficient. By allowing for an experience and training evaluation we can target knowledge, skills and abilities needed to perform the applications development work specific to that position.

In addition, with written tests, candidates must take time off work and drive to one of the seven SCSC test sites for written exams. As an agency with several field offices located throughout the state, some of our candidates live in remote locations and must travel a significant distance to take an examination that may or may not lead to their getting an interview and/or a job. Not having transportation or being able to take time off work can be obstacles for these job seekers and prevent them from ever becoming part of our candidate pool.

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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, the Department of Revenue had difficulty filling certain positions. We fill our Revenue Tax Auditor Trainee position across the state and utilize the Government Services Internship as one type of recruitment tool for these jobs. Interns that are interested in obtaining a Revenue Tax Auditor Trainee position must take the written examination with the Civil Service Commission and be in the top three scores in order to be considered for the permanent position. If we are able to use an alternative Rule-of-Three we believe we would see a higher return on investment for our recruitment efforts. Also, we survey multiple counties to fill Revenue Tax Auditor Trainee positions within each regional office. Candidates may receive multiple surveys and the process can be confusing when they receive the same survey for each list as they believe there are multiple jobs when there may only be one actual vacancy.

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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 to permit vacancy-based postings. This regulatory requirement would preclude the Department of Revenue from seeking an alternative to the Rule-of-Three for vacancy-based postings. For the Department of Revenue, the regulations pose a significant potential negative impact. As stated previously, the Department of Revenue actively recruits for our Revenue Tax Auditor Trainee positions. Our hope is that we would be able to consider those candidates whom we have recruited by using an alternative to the Rule-of-Three if necessary. If not, this could have a significant impact on our return on investment from our recruitment efforts. We hire a significant number of Revenue Tax Auditor Trainees every year.

Second, the regulation forces us to keep the alternative to the Rule-of-Three in place for at least 12 months. This will dissuade the Department of Revenue from using an alternative to the Rule-of-Three especially regarding the Revenue Tax Auditor Trainee. 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 have the Department of Revenue stuck using the alternative Rule for at least one year. Therefore, Revenue 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 the Department of Revenue wants to post most of its job openings. We specifically want to use vacancy-based

postings for our Revenue Tax Auditor Trainee (approximately 20-30 positions per year), Corporation Tax Account Supervisor, and Information Technology job titles.

In addition, the Department of Revenue believes that we, and not SCSC, are in a better position to know which jobs should be done through vacancy-based posting. For example, with non-Civil Service positions such as our District Lottery Representative we were able to post a vacancy in a rural county which generated over 90 applicants. Similarly, we want to use vacancy-based postings for Civil Service positions but believe the regulation is an impediment to do so. One example is with our Corporation Tax Account Supervisor job title. Since there is no test for the Corporation Tax Account Supervisor job, it was suggested we utilize a comparable list for a Corporation Tax Account Technician and survey the candidates who have taken this test to see if they would qualify for the higher level supervisory position. If we were able to utilize a vacancy-based posting it would have been more efficient and less time consuming than the survey process.

Also, our Bureau of Audits conducts regular recruitment efforts for our Revenue Tax Auditor Trainee position. A fully trained Revenue Tax Auditor brings in over \$1 million in tax assessments per year. They perform a variety of advanced tax auditing and computer assisted auditing activities and serve as a technical expert in at least one major tax area such as sales and use tax, corporation tax and gross receipts tax, liquid and motor fuels tax, cigarette tax, employer withholding tax, and personal income tax. They conduct complex intrastate and interstate tax audits of large multi-faceted, multi-state business entities to determine compliance with Commonwealth tax laws and regulations. By allowing vacancy-based hiring the managers can direct candidates to apply for actual vacancies and consider candidates they know are interested in this particular job. Our managers invest a significant amount of time talking to college students at job fairs and in classrooms to garner interest in public sector employment. We believe we are missing out on a talented pool of applicants by utilizing the archaic and not so user friendly system.

The Department of Revenue appreciates the Commission's and the SCSC's review of our comments to the proposed regulations and consideration of the many negative effects of the proposed regulations on this agency if they are adopted as written. Please contact me if you need any additional information on the matters addressed in this letter.

Sincerely,



C. Daniel Hassell
Acting Secretary of Revenue

cc: State Civil Service Commission

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