

Kathy Cooper

3167

From: Wood, Denise (CS) <kawood@pa.gov>
Sent: Wednesday, November 29, 2017 11:41 AM
To: IRRC
Subject: Comment to proposed regulation IRRC # 3167
Attachments: SKM_554e17112912140.pdf

Good morning.

Attached is a comment from the Pennsylvania Department of Insurance that SCSC received today.

Best regards,

Karen Denise Wood
Assistant Counsel
State Civil Service Commission

From: state.pa.gov
Sent: Wednesday, November 29, 2017 12:15 PM
To: Wood, Denise (CS) <kawood@pa.gov>
Subject: Message from KM_554e

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May 12, 2017

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IRRC

2017 NOV 29 A 11: 48

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 Pennsylvania Insurance Department ("PID") has some 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 seems to have decided to issue proposed regulations that might undermine the intended purpose of the laws and give SCSC the ability to thwart the implementation of them.

Approximately 83 percent of PID positions are covered by the SCSC. Therefore, we have a very significant and personal stake in having the laws implemented as written and intended. We are providing the below specific examples of how the legislative changes will allow PID to improve services and how the proposed regulations could 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

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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 PID, this change would be important because many of our potential applicants are not current Commonwealth employees, and therefore are not familiar with the employment procedures followed by the Commonwealth. Our agency has undertaken many efforts to actively recruit from colleges and universities in order to expand the candidate pool not only for our own agency, but for all agencies in the Commonwealth. In addition, PID also has some positions that are not classified as civil service, and by simplifying the process, it would allow for the seamless entry of much-needed new talent into the Commonwealth's workforce.

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, PID strongly believes that it is in a better position to know how candidates can best be evaluated for our specific positions. For example, PID has many positions that are utilized only by our agency, and we are in the best position, and have the necessary expertise, to determine the best "examination" method to augment our staff. Specifically, PID continually hires financial analysts and financial and market conduct examiners. Because of the highly technical and complex nature of the work that these positions conduct, an actual examination may not be the most reliable indicator of success in such positions here at PID. Therefore, our agency would appreciate the ability to evaluate our applicants solely by means of evaluating their experience and training, as provided in Act 167.

In addition, with written tests, candidates must take time off work and drive to one of the six SCSC test sites for written exams. PID often recruits candidates from throughout the Commonwealth, and we are actively attempting to recruit newly-graduated and currently matriculated college and university candidates, who oftentimes have difficulty finding the time and resources to report for specific examinations, especially when those examinations do not reflect an accurate measure of the specific skills that PID is seeking in potential candidates.

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

Act 69 amended Section 601 to allow expansion of hiring eligibility lists by using a process other than the standard "Rule-of-Three." With the standard Rule-of-Three, PID has had difficulty filling certain positions because we often attempt to hire multiple candidates at the same time in order to more efficiently streamline our training and onboarding processes. As such, we often pass over certain candidates because interviews with them reveal that they do not possess the necessary skills that we are seeking. When we attempt to hire the next set of candidates for those same positions, we have found that we are often presented with the same set of candidates that we passed over previously and whom we already know are not suited for the positions at PID or are not interested in employment with PID.

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In addition, we note that the proposed regulations contain some requirements that were not in the Act 69 amendment to Section 601 of the Act. First, the proposed 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, which is further discussed below. Act 69 amended Section 602 of the Act to permit such vacancy-based postings. This proposed regulatory requirement would preclude PID from seeking an alternative to the Rule-of-Three for vacancy-based postings. For PID, the proposed regulations pose a significant potential negative impact in its recruiting and hiring processes.

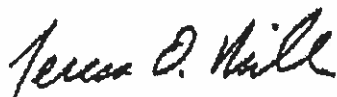
Second, the proposed regulation forces agencies to keep the alternative to the Rule-of-Three in place for at least 12 months. This could have the effect of dissuading PID from using an alternative to the Rule-of-Three, especially with regard to our financial analyst and financial and market conduct examiner positions. 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 PID stuck using the alternative Rule for at least one year. Therefore, PID may be unwilling to depart from use of the traditional Rule-of-Three for most or all positions instead of taking a chance on how the alternative Rule may work 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 reflects how PID wants to post most of its job openings because of its effectiveness. We specifically want to use vacancy-based postings for financial analysts and financial and market conduct examiners. Our agency has experienced difficulty in having examinations developed and opened on a timely or regular basis, so the "vacancy-based" process would be extremely helpful in that it would allow PID to consider new candidates on a regular basis. Our experience with the financial analyst and financial and market conduct examiner positions has been that, because the examinations for these particular positions are not currently open, we can only consider those candidates who took the test when the was previously open (as well as any current or former Commonwealth employees) some time ago, and we are often prevented from considering new applicants who seem to possess the requisite skills for the positions. This situation makes it very difficult for PID to seek out and bring in new, young talent for our agency.

PID appreciates the Commission's review of our comments to the proposed regulations and your 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,



Teresa D. Miller,
Insurance Commissioner