

COMMONWEALTH OF PENNSYLVANIA



STATE CIVIL SERVICE COMMISSION

Testimony By  
**Pennsylvania State Civil Service Commission**  
before the  
**State Senate Government Committee**

April 16, 2018      10:45 AM      Hearing Room 1, North Office Building

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Chairman Folmer, Chairman Williams and members of the Committee, thank you for the opportunity to appear before you today to participate in the discussion on Senate Bill 1037. We, the members of the Pennsylvania State Civil Service Commission (Commission) – Chairman, Bryan R. Lentz, Commissioner Odelfa Smith Preston and Commissioner Gregory M. Lane, are here to address any questions you and members of the Committee may have regarding this legislation and the impact on the Commonwealth's merit employment service. With us today are Commission Executive Director, Jeffrey Wallace and Chief Counsel, Frederick Smith.

Based on our conversations with members of this committee and staff, we understand the justifications for Senate Bill 1037 include an effort to help veterans and to compel the modernization of hiring by removing the Commission from that process. This latter goal is premised on the Commission's alleged failure to implement the statutory changes that were included in Acts 69 and 167 of 2016 both of which were aimed in part at modernizing the Commission's operations.

The Commission is committed to any modernization effort that preserves the essential elements of the merit employment system. These essential elements include independence and vigorous enforcement of the veterans' preference.

In the past year, the Commission has devoted hundreds of staff hours to the implementation of vacancy based hiring through a new online employment application system contracted by the Governor's Office of Administration (OA) and hosted by NEOGOV, Inc. In exactly one week from today, NEOGOV will go live and job seekers will be able to apply in real time on their smart phone or other device for actual vacancies as they become available. The Commission has long supported and utilized a form of vacancy based hiring to fill vacancies. This new system will allow that process to be dramatically expanded. The launch of the new system next week would not have been possible without the hard work and participation of Commission employees.

In addition to working to implement the NEOGOV system, the Commission has taken other steps to modernize and implement previous legislative changes. Specifically, the Commission has:

- **Modified the statutory “Rule of Three” selection requirement authorizing the Commission to approve an increase in the number of job seekers in the “rule” used to fill jobs based upon the operational needs of hiring agencies. This change was delayed by the regulations which we felt were necessary in order to prevent list manipulation. Nonetheless, this change has been implemented. State and local government agencies can now request a change in the “rule”. To date, 22 requests have been submitted and approved**
- **Met with state hiring authorities and other stakeholders who submitted comments to the Independent Regulatory Review Commission (IRRC) in response to the Commission draft regulations implementing the statutory changes to get their input on the Commission and its processes. Based on those meetings, the Commission revised the draft regulations for resubmission. However, the regulations have been withdrawn due to concerns by legislative offices and the OA. These regulations had one essential purpose and that was to ensure the Commission retained its ability to ensure fairness in the hiring and selection process**
- **Based on a priority job listing provided by the OA, the Commission is in the process of converting civil service examination programs from a “written” to an “experience & training” examination format**
- **In the past year, we have notified over 60,000 job seekers of their examination results by email instead of USPS mail as allowed by the new law. It is important to note for over a decade before that change the Commission accepted employment applications and individual test results could be viewed online**
- **As per the prior legislation, we have increased the number of days merit service employment certification lists are valid from sixty to ninety work days**
- **We have advertised on the Commission’s publicly accessible Internet website and in all Commission announcements, advertisements and examination materials, that veterans’ preference is the law of this Commonwealth and that, to determine standing on all certified eligibility lists, an additional ten points will be applied to the final examination score obtained by a veteran in accordance with the law, and the same preferential rating given to veterans under this chapter shall be extended to include spouses, in accordance with the law**

As noted, all of these actions were required by Acts 67 and 169 and all have been completed.

On the subject of veterans, our careful analysis of SB 1037 forces us to conclude it does not help veterans and quite possibly hurt their chances of gaining state employment.

First and foremost, SB 1037 changes who enforces veterans' preference by taking it away from a veteran-led, independent Civil Service Commission with a long history of applying and enforcing the benefit including defending court challenges to the application of the preference. Under the draft legislation the enforcement authority is transferred to the Office of Administration; an agency with no required veteran leadership and no track record of enforcing the preference to civil service or non-civil service hiring.

In 2011, former Governor Thomas Corbett signed into law a requirement that one member of the Civil Service Commission must be a military veteran. In comment to this decision, the former Governor stated, "For many years now, it has been state policy that those who have served in our Armed Forces should be given special consideration for civil service jobs. The reason for this was simple: the men and women who wore the uniform of our nation, who volunteered to be in harm's way in times of crisis, had shown our nation special consideration. It only seemed right to return the honor. The problem is that good ideas mean nothing if we don't act on them. It is not enough to give our word – we have to keep it."

By having a veteran serve on the Civil Service Commission, Corbett said, "it will ensure that the men and women who served in the military will have an advocate who understands their needs and will represent their rights." There is no such requirement in the Office of Administration and removing the enforcement of veteran's preference from the Commission would effectively nullify the 2011 legislation.

It is also worth noting, the Commission passed Resolution 2018-1 that requires all agencies to always review a list of qualified veterans before making any civil service hiring decision and to justify any decision not to hire from a veteran list. This requirement was enacted under the leadership of the veteran member of the Commission and will be eliminated by SB 1037. We do not as a state hire enough veterans. Eliminating Resolution 2018-1 will hurt efforts to increase the number of veteran hires.

It is important to emphasize that hiring veterans is different than enforcing veterans' preference. Enforcing the preference includes requiring a veteran to be hired over a non-veteran when they are equally qualified. Removing the enforcement of the preference from an independent agency will not improve enforcement. We believe a better alternative would be to expand and strengthen the Commission's current enforcement powers to include non-civil service positions.

In addition to implementing the statutory changes in Acts 69 and 167, the Commission continues to support efforts to address the interests of disabled Pennsylvanians.

Following discussions with Department of Labor and Industry and various state disabilities organizations, the Commission changed its long standing policy of pre-test qualifications as a specialized service and implemented a post-test qualifications eligibility review process. Since this change took effect, 155 job applications have been submitted for ADA accommodations. These typically include requests for enlarged print, braille, reader, sign language interpreter, Zoomtext, JAWS, separate examination area, note take/writer and other accommodations.

We also met with state disability organizations to discuss the pending "Employment First" legislation, the Federal "Schedule A Program", California "LEAP Program", and other alternative hiring path programs for individuals with disabilities and the possibility of creating a similar type program (Pennsylvania Qualifier Program) in Pennsylvania subject to the approval of the OA. The Commission supports alternative pathways to employment for people with disabilities, but lacks the legal or administrative authority to establish one. The authority resides with the OA and the Commission has sent correspondence to the OA expressing its support.

In response to a recommendation made by Auditor General Eugene DePasquale in the "State of the Child" Special Report dated September 2017, the Pennsylvania Department of Human Services has formed a work group to include representatives from Pennsylvania County Human Services Departments, Commission and others to review, revise and update the job specifications requirements for the County Caseworker job series. The results of this work group most likely will restructure the job series and change the type of assessment administered.

The Commission's role in administering the Commonwealth's merit service is to provide a centralized employment system that promotes equal employment opportunities to all citizens of the Commonwealth for state and local government public sector job opportunities. Of the more than 73,000 employees under the Governor's jurisdiction and independent Boards and Commissions, approximately 53,000 (70%) throughout 38 state agencies are covered by the merit service. The remaining (30%) or about 21,000 jobs are filled in accordance with the selection practices as established by the Governor's office.

Approximately 6,900 employees work in merit service jobs with more than 300 county and local government agencies that contract with the Commission for services. Local government agencies and programs include children and youth, mental health/intellectual disabilities (MH/ID), drug and alcohol services (D&A), area agencies on aging (AAA) and most Pennsylvania housing authorities.

The Commission conducts public hearings on appeals from employment related disciplinary or other actions filed by merit service employees and job seekers who believe they been denied job opportunities based upon discrimination or other non-meritorious factors. The Commission also investigates complaints filed by employees, job seekers, and state and local government agencies alleging violations of the provisions of the Civil Service Act; and is responsible for applying and enforcing the provisions of the Military Affairs Act (Act 92 of 1975, as amended; 51 Pa. C.S. subsection 7101.

In closing, the proposed legislation would undo the over one hundred years of reform efforts that led to the creation of an independent merit employment system here in Pennsylvania. A system by which all Commonwealth job seekers can compete and have an equal opportunity to obtain gainful employment based entirely on demonstrated experiences and not on whom you know. The creation of the merit employment system was a rare example of legislators acting against their own self-interest by outlawing the spoils system of hiring decisions. The Commission has functioned for 76 years without a hint of corruption. It has successfully administered a system which requires "appointments and promotions" be based on "merit and fitness" to perform the jobs. No other extraneous or non-meritorious factors considered.

The legislation will eliminate the Commission's current authority to initiate independent investigations into hiring and promoting actions resulting from complaints filed by the public, job seekers, current state employees, hiring authorities, legislative offices and others.

The legislation will suspend any outside review of the Commonwealth's merit service hiring processes and procedures for an initial three-year period after passage.

The passage of SB 1037 authorizes the OA to determine what is or is not "prohibited" political activity and to conduct investigations and render decisions of such activities.

We recognize the goal and importance of the legislative changes contained in Acts 67 and 167. The Commission has moved forward and implemented the changes.

Again, thank you for the opportunity to address the Committee and allowing us to participate in this discussion.

We are happy to address and answer any of your questions.