

June 6, 2017

Hon. Daryl Metcalfe
Room 144, Main Capitol Building
Harrisburg, PA 17120

Hon. Matthew D. Bradford
323 Main Capitol Building
Harrisburg, PA 17120

Dear Chairman Metcalfe:

On behalf of the 14,000 small-business members of the Pennsylvania chapter of the National Federation of Independent Business (NFIB), thank you for the opportunity to submit comments regarding the regulatory review process in Pennsylvania.

As a matter of introduction, NFIB members represent virtually every sector in Pennsylvania's economy. A typical NFIB member employs five or fewer workers and generates gross sales of \$400,000 per year. Small employers make up an enormous segment of Pennsylvania's business community. Nearly 98 percent of businesses employ 100 or fewer workers. Just like NFIB's membership, most small employers are organized as sole proprietors, partnerships, sub-chapter-S corporations or Limited Liability Companies (LLCs). Businesses organized in this fashion report their business income and pay business taxes through their personal returns.

Despite their importance to the economy, small businesses are heavily burdened by the costs of government regulation and excessive paperwork. Because of their size, small businesses are particularly sensitive to regulatory changes.

The cost of compliance for small firms is much higher for these firms than their larger counterparts in the business community. The cost of tax paperwork for example is the most expensive paperwork burden that government imposes on small business owners – on average \$74 per hour in tax preparation and compliance costs. For every dollar in state sales tax that a small business owner collects and remits -- it costs the 13 cents in bookkeeping and compliance. Another challenge is that many small employers often stumble across regulations during the normal course of business operations.

NFIB members appreciate the desire of the committee to examine the regulatory climate and the review process in our Commonwealth. To that end, we recommend that lawmakers consider a moratorium on new regulations while they establish a review process to repeal outdated rules or regulations that provide little value.

In 2012, the state's Regulatory Review Act was amended to require state agencies to consider the economic impact of proposed regulation on small business and consider less costly alternatives.

Specifically, the law added “small business” to the existing list of stakeholders on economic impact statements with the goal of sensitizing government regulators to how mandates affect small employers.

We appreciate the work of the Independent Regulatory Review Commission to ensure that agencies include these in their impact statements. We recommend adding a judicial review component to the law as an important check on agencies and state executives that overreach.

Another improvement to the statute would be to require agencies to establish in the economic impact statement an actual cost estimate to the regulated community. Similar to a fiscal note for legislation, this requirement would estimate the economic cost of regulation on business, workers, and the state economy.

Legislation like HB 911 proposed by state Rep. Greg Rothman would be valuable toward this end. That legislation requires any draft regulation which has a fiscal impact of \$1 million on the economy be approved by majority votes in both the Senate and the House. Importantly, should either the Senate or the House reject the regulation, the agency will be barred from implementing the regulation.

Other recommendations would be to require agencies proposing regulations to conduct education and provide guidance to regulated employers before the new regulations are imposed; enable employers who have shown a history or willingness to comply with regulations an opportunity to rectify a discrepancy or violation before penalties are imposed; establish a self-audit system that reduces or eliminates penalties if the violations are voluntarily discovered and promptly disclosed.

To improve the regulatory climate, policymakers also should examine and fix the permitting process. Countless small-business owners have waited years to get permits from the Department of Environmental Protection (DEP) and local governments. Many frustrated business owners simply give up or divert business capital to projects in other states. Regulators must be held to strict timelines to review applications. Decisions should be based on law and not subjective criteria determined by the bureaucrat.

Thank you for the opportunity to submit comments on this matter. If you have any questions about this or other issues affecting the men and women who work for or own a small business in Pennsylvania, I can be reached by calling 717.232.8582 or by email at kevin.shivers@nfib.org.

Sincerely,



Kevin Shivers
Executive State Director