

*Pennsylvania Senate Intergovernmental Affairs Committee
Regulatory Review Hearing-December 12, 2019
Martin's Famous Pastry Shoppe, Inc., Chambersburg, PA*

Senator Mastriano, distinguished members of the Intergovernmental Affairs Committee, Representatives Kauffman and Schemel, thank you for the opportunity to offer testimony on the impact of regulations on economic development across Pennsylvania. As we have witnessed over the last 34 months at the federal level, the review, modification, and in some cases rescindment of onerous regulations has been widely credited as the genesis of the national economic renaissance. We have seen record levels of manufacturing output, employment, and consumer confidence. What has taken place at the federal level with respect to regulatory reform needs to be regarded as a best practice to be replicated in Pennsylvania.

Background:

As a matter of background, I am Mike Ross, and I am president of the Franklin County Area Development Corporation (FCADC). The FCADC is a 501(c)(6) non-profit corporation whose mission is to formulate, implement, and promote a comprehensive economic development strategy that is focused on economic diversification and the creation of family sustaining employment opportunities. Our services are specifically tailored in support of the retention and expansion of existing businesses, selective attraction of new employers, and the start-up of new businesses. Since our reorganization in 1986 the FCADC has facilitated more than 760 projects across Franklin County that have resulted in more than \$2.1 billion of capital investments, and have impacted more than 50,000 jobs. (The statistical impacts do not include our support of the Letterkenny Army Depot.)

In addition to my 41+ years as a practicing economic developer, the last 33 with the FCADC, I am also past president of the Pennsylvania Economic Development Association as well as the Northeastern Economic Developers Association. My point is not to walk you through my resume but it is to establish that I have an understanding of economic development and the effects of regulation both real, and perceived, on business decisions to locate, expand or start a business.

Regulatory Oversight:

If there is one takeaway from my testimony today, it is that there is a cost to every regulation and the cost is exacerbated when the regulation is unneeded or unwarranted. Unfunded mandates are a major determinant in a decision to expand, locate, or start a business...or to relocate to another state. I am not in any way suggesting that there should not be any regulations or that all regulations should be rolled back or eliminated. Most were put in place for a specific purpose, however when regulations are promulgated, regardless of what is being regulated, they need to be clear and concise to insure for consistent and uniform interpretation

and administration. Also, regulations need to be reviewed on a specific calendar schedule to ensure that they continue to be needed, require modification, or termination. Take for example the Pennsylvania Liquor Control Board. In my opinion, the review, modification and, in many cases, the termination of many LCB regulations could have a dramatically positive impact on community development across the entire Commonwealth. One has to be well-versed in Greek mythology and hieroglyphics to have the capabilities of understanding and explaining the myriad PLCB regulations and the decision-making process. If the process was simplified and streamlined to allow for the issuance of more licenses, I think there would a significant increase in the number of locally owned start-up businesses in our core downtowns. The PLCB is an example of how regulations create an administrative bureaucracy that when left unchecked expands its oversight responsibilities into areas for which it was not intended. By creating a consistent review schedule, the legislature can determine as to whether a regulation or regulatory agency should be continued, modified or terminated. Again, the take away is **there is a cost to every regulation and the cost is exacerbated when the regulation is unneeded or unwarranted. Unfunded mandates are a major determinant in a decision to expand, locate, or start a business...or to relocate to another state.**

Timely Decisions

Regulatory oversight and compliance demand timely decisions. The regulatory bureaucracy has evolved into a convoluted and lengthy process for decisions. I am certain that everyone that testifies today can cite an experience in which the decision-making process caused an unnecessary delay. Let me give you just one example (of which I could provide many). The example involved a Brazilian manufacturer that located in the Cumberland Valley Business Park, which is contiguous to the Letterkenny Army Depot. The issue dealt with an Endangered Species regulation involving the rarely seen spade foot toad, which apparently only surfaces between April and June each year. The Pennsylvania Fish and Boat Commission required a "habitat assessment" to be completed in spite of the recommendation of multiple licensed civil engineers stating that based on the shale-based soils and topography, there was ZERO probability of finding a spade foot toad. The Commission would not accept the review of the engineers, rather we were referred to a habitat specialist based in Philadelphia, who we learned was the one and only specialist in the entire Commonwealth capable of providing the report. \$2,000 and 30 days later the report confirmed that there was no presence of spade foot toads. Ironically, we considered the timing of the investigation to be in our favor as it was within the April-to-June time frame. Had it not been, the project could have been further delayed up to a year. We were fortunate in this instance that the Company remained committed to our site as they could have easily decided to relocate to Maryland or West Virginia. **Again, there is a cost to every regulation and the cost is exacerbated when the regulation is unneeded or unwarranted. Unfunded mandates are a major determinant in a decision to expand, locate, or start a business...or to relocate to another state.**

Unintended Consequences

The adoption of regulations requires a comprehensive review to minimize unintended consequences. Regulations need to be well thought-out and not an emotional response such as that to the Jerry Sandusky prosecution, in which the regulatory requirement for those circumstances requiring background checks has had the unintended consequence of reducing volunteerism in support of children. It is in no way my intent to condone the actions of child abusers or to suggest that no regulatory action should have been taken, rather it is an example of how a regulation can have unintended consequences and lessen the impact on those that the regulation was intended to benefit. Consider the effects that it has had on employers, non-profits, and community organizations. There is a significant cost to securing and verifying appropriate clearances, of which many organizations and employers have found to be either too costly or onerous. Consequently, many have simply opted out of events involving minors. Now, more than ever there is a concerted effort to strengthen the interaction between employers and school districts, however the mandatory clearance requirement has had the unintended consequence of limiting those opportunities. I am aware of several situations in which employers used to have a “bring your child to work” day that they have terminated because of the regulations and I can cite several examples as to how it has also impacted the placement of interns and co-op students, and other workforce development initiatives. It also brings into focus the penalties for non-compliance whether intentional or not, which in many cases are significant. The point is that when considering any regulation, it is essential to review it for the possible unintended consequences prior to its implementation. And if the unintended consequences become apparent after implementation, there needs to be a willingness to make appropriate changes because **there is a cost to every regulation and the cost is exacerbated when the regulation is unneeded or unwarranted.**

Impact on Business Climate

Business climate is as much perception as it is reality...but one’s perception creates reality. A state or community’s business climate is based on several subjective indicators including taxes and the predictability of tax rates, commitment to education and workforce development, labor availability and work ethic, transportation and infrastructure costs and capacities, energy availability and cost, and the regulatory environment. The regulatory bureaucracy can establish one’s perception of the business climate. Anytime a new regulation is implemented, it affects the business climate. Currently, there has been considerable discussion regarding the implementation of a stormwater impact fee, commonly referred to as MS-4, that will affect all businesses, non-profits, churches, hospitals and residents. This is a regulation born out of the Chesapeake Bay Compact that is intended to “clean up the bay.” The direct impact to the FCADC is nearly \$24,000 annually, which seems extreme given that the properties we own all have approved on-site stormwater management plans in place. That regulation in and of itself has impacted our business climate...both real and perceived. **There is a cost to every regulation and the cost is exacerbated when the regulation is unneeded or unwarranted. Unfunded mandates are a major determinant in a decision to expand, locate, or start a business...or to relocate to another state.**

Conclusion

I conclude my testimony as I opened it, we need a regulatory environment that is fair, consistent and judiciously administered. As with the “rule of law,” business decision-makers predicate their decisions on the consistency, predictability, and relevancy of the regulatory environment. Arguably, more than any other site-location factor, the regulatory environment establishes the perception of a community’s or a state’s business climate. So, I applaud your efforts today because you recognize that **there is a cost to every regulation and the cost is exacerbated when the regulation is unneeded or unwarranted. The cost of regulation is a major determinant in a decision to expand, locate, or start a business...or to relocate to another state.**

Thank you.