

NJBIA

AT ISSUE By Melanie Willoughby, Senior Vice President

NJ's Regulatory Reform Efforts Producing Results

Governor Chris Christie came into office determined to change New Jersey's business climate, so his first executive order dealt with regulatory reform. Next to taxes and health insurance costs, regulations have been one of the biggest concerns of business owners. Christie directed state agencies to use common sense principles in developing regulations, and he created the Red Tape Review Group to prepare a report on how to fix New Jersey's regulatory bureaucracy.

Today, those initiatives are producing tangible results.

A good example of the new attitude can be found at the NJ Department of Labor (DOL). One of Christie's common-sense principles is that New Jersey rules should not exceed federal standards without a clear justification. But the department had required a stricter standard when determining if an employee is exempt from overtime-pay requirements.

Putting Christie's common sense principle into practice, DOL adopted federal standards for determining when an employee must be paid overtime. Instead of following two separate sets of guidelines, businesses now have to follow only one set of overtime rules.

New Jersey previously required exempt employees to spend at least 80 percent of their time each week performing tasks like executive, administrative, or professional functions in order to qualify for the overtime exemption. Federal rules, however, provide only that an employee whose "primary duty" is performing exempt tasks may be properly classified as exempt and not eligible for overtime.

The Governor's common sense principles also recognize that one regulation cannot properly address every possible situation. At some point, agencies need some flexibility to determine that in certain cases a regulation simply doesn't make sense.

In following this principle, the NJ Department of Environmental Protection (DEP) has proposed a rule-waiver procedure to allow it, in certain cases, to remove unreasonable impediments to economic growth while ensuring net environmental benefit for the state. As written, the waiver rule could only be used to resolve differences over conflicting rules, provide relief from unduly burdensome rules or respond to a public emergency. The rule proposal says that waiver applications must be site- and fact-spe-

cific, and cannot compromise protections for the environment or public health.

The Legislature has also stepped up to make regulatory changes.



>Governor Christie's regulatory reform initiatives are producing tangible results.

For instance, Governor Christie and the Legislature have enacted A-2720 (Burzichelli, Rumana)/S-2014 (Oroho, O'Toole), which will make it easier to make necessary changes to proposed regulations prior to their final adoption. This may seem arcane, but under the old system, agencies were reluctant to accept common sense changes because it required those agencies to start the regulatory-change process all over again.

The Governor and Legislature have also enacted A-2853 (Burzichelli, Milam)/S-6 (Sarlo, Kyrillos), which will streamline the permitting process for certain economic development projects. Specifically, it requires state agencies to identify permits that can be expedited by allowing company executives to certify they are in compliance and then to ensure compliance is achieved through inspections and audits.

These changes represent a new recognition in government that regulations are like a hidden tax. The time, effort and expense of complying with regulations divert resources businesses could use to operate and expand their companies. We will still enforce regulations to protect our environment and treat employees fairly, but there's no reason we cannot use common sense to do so. **NJB**