



2015 Mid-Year Report on Activities

August 28, 2015

Lt. Governor Mary Taylor

77 S. High Street, 30th Floor

Columbus, OH 43215

CSIOhio@governor.ohio.gov

www.governor.ohio.gov/CSI

Introduction

On January 10, 2011, Governor John R. Kasich signed Executive Order 2011-01K establishing the Common Sense Initiative (CSI) Office and assigning this important task to Lt. Governor Mary Taylor. The Common Sense Initiative is a process for independently evaluating the economic impact of state agency regulations on Ohio businesses.

The Executive Order stated explicitly that Ohio's business community is a partner in the state's success. As such, while regulations play an important role in promoting fair competition and protecting the public, regulations should also facilitate economic growth. Ohio's regulatory process should be built on the foundations of transparency, accountability, and performance. Finally, the priority of a strong regulatory system should be *compliance*, not *punishment*.

In implementing the Executive Order, Lt. Governor Taylor has placed a premium on the principles of transparency and accountability. The CSI Office has been designed to function as a partnership between the Administration, state agencies, the business community, and the public to develop a regulatory framework that balances the need for regulation with the equally important need to promote economic development and job creation. As such, in March of 2011, Lt. Governor Taylor developed a strategic plan to guide the operations of the CSI Office and to serve as the basis for future reporting. The CSI Office formally reports twice each year on its activities and on its progress toward meeting the objectives in the Strategic Plan.

This Mid-Year Report focuses on updates to Goals 1 and 2 for the first half of 2015. These two goals represent the substantive operations of the CSI Office – the rule review process initiated in January 2012 and the accomplishments of the Office through direct outreach to businesses – and thus lend themselves to more frequent evaluation. During 2014, Lt. Governor Taylor engaged in a review of the CSI Strategic Plan to identify opportunities to better define the objectives of the CSI Office, the strategies for achieving the objectives, and the measures of progress. Going forward, the annual report required by February 1 each year will reflect the new objectives, strategies, and metrics.

The work of the Common Sense Initiative (CSI) Office is based on the following four principles:

1. Regulations should facilitate, not hinder, economic growth.
2. Regulations should be transparent and responsive.
3. Compliance should be as easy and inexpensive as possible.
4. Regulations should be enforced fairly and consistently.

Goal 1: Develop a CSI process that is efficient, credible, and effective

2015 Measurables:

1. <u>Number of regulations reviewed</u>	1,220
2. <u>Number of rule packages reviewed</u>	161
3. <u>Number of CSI recommendations issued</u>	
• Number of CSI recommendations issued	3
• Number of rule packages rejected by CSI	0
• Number of CSI rule packages tabled	20
• Total number of packages affected	68
• Rule packages changed during CSI process	19
• Rule packages changed during ESO	61
• Number of revised BIAs received	37
4. <u>CSI review times (# of rule packages)</u>	
• 1-30 days	43
• 31-60 days	44
• 61+ days	74
5. <u>Percentage of recommendations implemented</u>	100%
6. <u>Number of motions to invalidate by JCARR</u>	0
7. <u>Number of comments received through the electronic notification system</u>	112
• % of rule packages that had at least one comment	30.4%
8. <u>Number of business-impacting rules rescinded or amended</u>	719
• Rescinded	100
• Amended	619

Analysis: Effective January 1, 2012, all proposed rules that impact business (new, amended, rescinded, and those being reviewed under Ohio’s five-year review requirement) are submitted to the CSI review process. In the first half of 2015, CSI reviewed 1,220 rules, which were presented in 161 rule packages.

In total, business rule filings are consistent with 2014 filings, when 1,262 rules were submitted to the CSI Office in 199 rule packages. As was noted in previous reports, both the CSI Office and the Joint Committee on Agency Rule Review (JCARR) have placed a heavy emphasis on

agencies completing the required five-year reviews of existing rules, a number of which were overdue. The five-year review is an essential component of the CSI process to ensure that existing rules are still necessary and the impacts to businesses are still justified, and to amend or rescind those rules that can no longer demonstrate they are justified as written. Partly as a result of this push for reviews of existing rules, the number of business rule filings has increased in 2014 and 2015 over the first two years of CSI reviews.

Measurable (3) reflects the interaction between CSI and state agencies, boards, and commissions submitting rule packages for review. Recommendations are issued by CSI in a formal memo and generally suggest revisions that the submitting agency should make to the draft rules, or in some cases to its Business Impact Analysis (BIA). Concerns about rules must be resolved by either changing the rules or better justifying their impact before they can move forward with the JCARR rule filing process. However, the above numbers reflect the fact that the CSI process involves significant work with agencies to improve rules and agency justifications before a recommendation is issued. This report attempts to reflect this impact by identifying the number of rule packages that changed either as a result of the early stakeholder outreach required by the CSI process, or within the CSI review itself. Approximately 42 percent of the rule packages reviewed by the CSI Office were impacted in these ways, leading to business rules that have more input from the stakeholders and that have been challenged and improved through CSI review.

In addition to the improvements in the quality of the rules through the back-and-forth of the CSI process, CSI continues to track the outcome of rules after they complete their CSI reviews. To date, all recommendations from the CSI process have been implemented by the agencies, and JCARR has not attempted to invalidate a business-impacting rule that the CSI analysis determined was justified.

Goal 2: Impact a significant number of regulations based on the Vision statement for the CSI Office

Measurables:

Number of regulatory suggestions received through CSI contacts

Through the first six months of 2015, the CSI Office received 51 suggestions and requests for assistance. Matters involving the Ohio Environmental Protection Agency constituted the largest grouping of issues (4), with matters involving motor vehicles, taxation, and education being the second largest grouping (3 each).

Discussion:

The CSI Office operates along two tracks, and those tracks have different measures and different ways of impacting the business climate in Ohio. The formal rule review track is described and measured in Goal 1. The second track represents a bottom-up approach, where the CSI Office seeks input from businesses about the regulations that most directly impact their ability to operate, grow, and create jobs in Ohio. On this track, CSI activities may focus on assisting a single business (serving an ombuds function to help navigate the state bureaucracy), one industry sector, or a broader swath of the business community.

The 51 unique suggestions and requests received through the CSI email address is lower than the 65 received for the same period in 2014. Additional suggestions and requests have been received via direct outreach to businesses by the Lt. Governor, staff, and the Small Business Advisory Council. As part of recent strategic planning efforts, the CSI Office is in the process of developing a new communications plan to increase awareness of the Office among businesses and the general public, including using the communications resources available – web site, social media, etc. – to drive more suggestions to CSI.

The second track of CSI operations is less quantifiable in terms of number of regulations impacted, but is more focused on communicating stories of CSI successes to demonstrate change to the business community. The cumulative effect of these “success stories” has helped change the perception of Ohio’s regulatory climate and show the impact of CSI. As such, the success of Goal 2 includes a discussion of specific regulatory initiatives, along with specified measurables.

2015 CSI Initiatives

Commercial Truck Inspection – A representative of a metropolitan chamber of commerce called CSI to raise an issue one of its members was experiencing. The business had just purchased five cement trucks, but was informed that inspection and approval of the vehicles would be delayed by over a month, meaning the business would not be able to use its new assets during that time. CSI contacted the Highway Patrol, which promptly contacted its field personnel and the business to determine how best to coordinate a more timely inspection. As a result, the inspections were

completed in three business days, saving the business a month's wait. Follow-up discussions are ongoing to determine the root cause of the delay and whether additional action is necessary.

Unclaimed Motor Vehicle Title Transfer – An automotive repair shop contacted CSI after experiencing difficulty in navigating the process for claiming title to a vehicle that had been abandoned by its owner at the shop. CSI reached out to the Bureau of Motor Vehicle Title Support Section, which worked with the business and the county title office to eliminate confusion and identify the documentation needed by the county. As a result, the business was able to quickly resolve the situation and complete the transaction.

Caseworker Visitation Requirements – The Ohio Department of Job and Family Services (ODJFS) submitted a rule package that provided caseworker visitation requirements for businesses operating in the children's services area. The rules were amended to implement guidance received from the federal government, but in the process were eliminating the ability of public agencies at the county level to contract with private agencies to conduct required monthly visits. During the CSI rule review, several comments were received expressing concerns about the impacts to both public and private agencies. As a result, despite the federal requirements that must be addressed in the rules, the Department is working closely with the association representing the private agencies to mitigate the impact and ensure that the role of the private agencies is protected.

MBE Certification – CSI was contacted by a business owner concerned about an apparent delay in his application for certification as a Minority Business Enterprise (MBE). This delay meant that the business was missing opportunities to bid on certain contracts. CSI contacted the Department of Administrative Service's Equal Opportunity Division regarding the business owner. After it became apparent that the Department was waiting for additional tax documents that had been requested from the business, Department staff called the business owner directly and was able to have the remaining tax documents sent, and DAS finished its review and approved the certification the following day. It also sent the business its MBE certificate electronically to allow for immediate use.

Liquor Laws – The Common Sense Initiative Office was contacted by a group of established entrepreneurs who operate pedal-powered commercial "quadricycles" that transport customers on tours of an area in a social setting. The entrepreneurs were seeking to expand their businesses by allowing customers to have alcoholic beverages on the tours, which required an exemption from state open container laws. Working with various stakeholders – including the Departments of Commerce and Public Safety – the CSI Office facilitated a common understanding of the purpose and use of the exemption, as well as assurances that the exemption would create no new risks to public safety. This legwork helped pave the way for a legislative change that under certain restrictions allows for open containers on these commercially-owned "group cycles" with independent drivers (who are not consuming alcohol).

Tax Filing Form Approval – A representative of a statewide business association called CSI saying that it was getting an increasing number of calls from members concerned that they were unable to file certain state tax returns for business clients because the electronic version of the forms used in tax filing software platforms had not yet been approved by the Department of Taxation. CSI facilitated a conversation between the association and senior Department of Taxation IT staff to identify the problem and quickly resolve the matter.

Hospice Cancer Reporting Liability – The Ohio Department of Health submitted a rule package that established requirements for the Ohio Cancer Incidence Surveillance System. During the CSI public comment period, a statewide association submitted suggestions for mitigating the potential impacts to members of the hospice industry. Specifically, its concerns were with reporting requirements in the rules and the possibility that a hospice physician treating a cancer patient at the end-of-life – as opposed to an oncologist attempting to treat the cancer itself – might be liable for civil penalties if information was not reported. As a result of the CSI process, a compromise was developed that provided clarity to the requirements and eliminated the concerns of physicians providing this important end-of-life care.

Building Permits – The CSI Office was contacted early in 2015 with a request for assistance by a company that had previously worked with CSI to resolve another regulatory matter. The company was preparing for an expansion and considering its location options in Ohio and another state. A critical factor in the location decision was the ability to meet an aggressive timeline for expanding its facility. In a meeting facilitated and attended by CSI staff, corporate representatives met with the Department of Commerce to discuss the company’s goals and strict timeline requirements. Because of the communication channels that were established along with a shared understanding of each party’s requirements, the company ultimately decided to expand in Ohio and will result in approximately 25 new jobs. To date, the expansion project is meeting its timeline requirements.

Governor John R. Kasich | Lt. Governor Mary Taylor



CSIOhio@governor.ohio.gov

www.governor.ohio.gov/CSI

1-888-821-8898



@CSI_Ohio



CommonSenseInitiative

SMALL BUSINESS ADVISORY COUNCIL MEMBERS



ORLANDO ALONSO
Columbus Pest Control, Inc.
Office: (614) 279-1587
Lonnie@columbuspestcontrolinc.com



MICHAEL BAACH
Philpott Solutions Group
Office: (330) 225-3344
mbaach@philpottolutions.com



MICHAEL CANTY
Alloy Bellows & Precision Welding, Inc.
Office: (440) 648-3000
m.canty@alloybellows.com



THOMAS DEMALINE
Willoway Nurseries
Office: (440) 934-4435
tom@willowaynurseries.com



CRYSTAL FAULKNER
Cooney, Faulkner & Stevens LLC
Office: (513) 768-6798
cfaulkner@cfscpa.com



RICHARD FEDOROVICH
Bober Markey Fedorovich
Office: (330) 762-9785
rfedorovich@bobermarkey.com



MICHAEL FLOWERS
KBK Enterprises
Office: (614) 476-3548
m.flowers@kbkenterprises.net



SANDRA MILLIGAN
Milligan Workshops
Office: (419) 353-0099
sandy@milliganworkshops.com



LORRAINE WALKER
Silver Bridge Coffee Company
Office: (740) 612-6300
lorraine@silverbridgecoffee.com