



## Eastern Atlantic States REGIONAL COUNCIL OF CARPENTERS

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January 27, 2023

### Official Remarks

#### House Democratic Policy Committee's Subcommittee on Labor, Energy, & Development

#### Drew Simpson, Regional Manager of the Eastern Atlantic States Regional Council of Carpenters

(Pittsburgh) Representatives Ryan Bizzaro, Nick Pisciotto, Anita Kulik and distinguished members of the House Democratic Policy Committee's Subcommittee on Labor, Energy, and Development, good morning and thank you for allowing me to make remarks today. My name is Drew Simpson and I am a Regional Manager for the Eastern Atlantic States Regional Council of Carpenters. In Pennsylvania alone we represent roughly 20,000 of the best trained and most skilled construction workers in the United States. In addition to my role as a representative for my union, I had the distinct honor to serve as Senator Jay Costa's appointee to the Joint Task Force on the Misclassification of Employees.

Our union is happy to host this Committee today at our Eastern Atlantic States Regional Council of Carpenters offices in Pittsburgh to continue the important conversation the Task Force has started regarding the misclassification of employees and the use of labor brokers with the hopes that this will eventually move beyond conversation to legislative action.

As you know, the Task Force, created by Act 85 of 2020, was a bipartisan group of seven, four appointees representing labor, and business, and one each from the offices of the Department of Labor and Industry (Chair of the Committee), the Department of Revenue, and the Attorney General's Office. We were tasked with investigating employee misclassification and developing recommendations on how to address and reduce this unlawful practice in our great Commonwealth.

As part of our efforts, we submitted two reports to the General Assembly:

- An annual report on March 1, 2022 with 15 unanimously approved recommendations; and



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- A final report on December 1, 2022 reaffirming our 15 unanimously approved recommendations and incorporating what we had learned since our March 1<sup>st</sup> annual report.

A quick note for the committee: As a carpenter, most of my testimony will be geared towards misclassification in the construction industry. However, as someone who served on the Task Force, our monthly meetings took us into all aspects of the workforce, including the gig economy, and allowed my colleagues and I to hear testimony from numerous stakeholders on this issue. It is obvious that misclassification happens beyond the construction industry, and I am committed to ensuring, as you should be, the adoption of all 15 recommendations.

Let's start with the numbers published by the Task Force, which I have included with my testimony, and you can also find on page 12 of the Task Force's final report. As you can see from the numbers, misclassification is a serious problem in Pennsylvania.

I'd like to draw your attention to the estimated losses of revenue to the UC Trust Fund and the General Fund:

- \$91 million annual lost revenue to the UC Trust Fund (3<sup>rd</sup> quarter of 2021 to the 2<sup>nd</sup> quarter of 2022).
- \$6.4 million to 124.5 million estimated range of lost revenue due to the General Fund due to misclassification in tax year 2019.

As you can see from these numbers in particular, misclassification is tax fraud.

Independent contractors are not afforded the same rights as employees and that means they aren't as "expensive" as employees. By misclassifying an employee as an independent contractor, a corrupt contractor can evade state, local, and federal taxes. They also avoid paying Workers' Compensation and Unemployment Compensation premiums, in other words, they commit insurance fraud as well. Furthermore, in research conducted by UC Berkely's Labor Center, they found that "28% of families of construction workers in Pennsylvania are enrolled in one or more safety net programs at a cost to the state and federal government of \$428 million per year. Compared to all Pennsylvania workers, construction workers are more than twice as likely to lack health insurance (7% compared to 16%)."<sup>1</sup>

In other words, these fraudulent schemes allow corrupt contractors to illegally lower their labor costs to underbid law-abiding contractors, meaning these contractors profit off the backs of



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workers many times through taxpayer dollars. Then, they push the cost of this work back onto the taxpayer. These corrupt contractors exploit our workers and then hand us the bill.

We have an entire class of workers being victimized. I wish I could say it was as simple as just registering labor brokers, increasing enforcement, or providing misclassified employees with a private right of action. But as you can see from the Task Force's reports, this issue is complex, and there is no silver-bullet policy fix. Instead, the only way to protect those who can't speak for themselves is to take on misclassification from every angle and use every tool at our disposal. Those tools included, but were not limited to, allowing State Agencies to share information, giving the Attorney General's Office legal jurisdiction over this issue and allowing agencies to keep monies from fines collected, which will allow for more investigators to be hired in the Department of Labor and Industry.

Just as each of you were elected to speak on behalf of your constituents, the union was built to speak on behalf of the workers who are not able to speak for themselves, and I know that we are all invested in giving Pennsylvanians the opportunity to make family sustaining wages in a safe environment so that our communities can thrive.

I look forward to our continued partnership as you deliberate on the Task Force's 15 policy recommendations and consider potential legislative fixes. Thank you again for taking the time to hold this meeting today and inviting me to testify. I'm happy to take any questions.