

Pennsylvania Senate Labor & Industry Committee
The Honorable Lisa Baker (R-20), Majority Chair
The Honorable Christine Tartaglione (D-2), Minority Chair

Unemployment Compensation and Seasonal Workers Hearing

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Testimony by:

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Madame Chair Baker, Madame Chair Tartaglione and Senator Wiley, thank you for the opportunity to speak regarding this very important issue to my company, our industry, and ultimately the citizens of Pennsylvania. I'm very happy that this venue was chosen to conduct this hearing considering this corner of the state has been, and will continue to be, one of the hardest hit by Act 60.

My name is Derek Rogers. My firm, RIG Consulting, Inc., is a small Women Owned Business certified as a Disadvantaged Business Enterprise (DBE) in Pennsylvania. The majority of our work is providing Construction Inspection Services on Public Works construction projects throughout the state. My role as Vice President of Operations, provides first-hand knowledge of the negative impacts to our inspection staff workforce resulting from Act 60. My colleague, Tim Fahrney of Erdman, Anthony and Associates, and I are here on behalf of the American Council of Engineering Companies of Pennsylvania. ACEC/PA represents approximately 120 engineering firms in Pennsylvania. Our membership employs well over 9,000 engineers and 1,000 construction inspectors on PennDOT, Pennsylvania Turnpike Commission, local municipalities and transit agency projects across the state.

Construction Inspectors are charged with monitoring the construction operations to verify that the construction methods and materials comply with the standards, specifications and design defined and/or approved by the owners (such as PennDOT) for each project. Our services, when performed by experienced and knowledgeable individuals, provide a great benefit to the citizens to help produce safe, cost effective and high quality infrastructure for which the taxpayers have paid. Simply, our inspectors are there to protect both the workers in the field and the taxpayer investment. When the attractiveness of this career path is reduced, the quality of the individuals will be reduced. A reduction in inspection quality results in lower quality product, increased safety incidents and long term higher cost to the taxpayers.

Our inspection workforce is comprised of highly experienced and certified inspection managers to entry level trainees learning under the senior level inspectors. These individuals have obtained years of onsite project experience, education such as Civil Engineering degrees, and certifications for OSHA safety, concrete, asphalt, traffic control, construction documentation and NICET (the National Institute for Certification in Engineering Technologies). Many of the certifications important in our industry require an experience pre-requisite and therefore are only attainable after years of direct field experience in addition to the knowledge component. Many individual inspection assignments require one or more of

these certifications as directed by the project owner. Our inspectors are not easily replaced as many years and significant expense are invested in each individual.

However, given Pennsylvania's winter climate, the schedule that our inspectors are able to work is seasonal. Additionally, our contractual agreements with the project owners already come with a significant level of uncertainty for our inspectors. Their employment is subject to many forces outside of our firms' control such as weather, contractor's schedule, environmental issues, permitting, the project owner's internal inspection staff assignments, unforeseen conditions, design changes, and traffic regulations. They are never guaranteed a start date, working hours or layoff date, and very often these important employment characteristics fluctuate at a moment's notice. Our inspectors want to work all year round. They travel far from their homes and families, work long hours in difficult conditions, and, due to the factors mentioned, their employment status is always tenuous. The safety net that Unemployment Compensation has provided in the past to mitigate these variables for our inspectors has been severely diminished by Act 60.

Since the implementation of Act 60, we have experienced a disturbing trend in our workforce. Employment as a construction inspector is now viewed as a temporary job rather than a career. Unfortunately, the added uncertainty brought on by Act 60 has encouraged many of our most qualified individuals to seek employment in other industries, and in many cases, other states. In addition to employee retention struggles, our ability to attract high quality candidates into our industry has been significantly reduced. Over the past few seasons, our firms have been able to continue to deliver with a reduced workforce despite the impact of Act 60 because of the reduced transportation construction program. However, with the passage of Act 89 and the onset of the Public Private Partnership Rapid Bridge Replacement Program (P3 RBR), the demands for qualified and experienced inspectors will be rapidly increasing.

The inspector employees of my firm, and almost all of the ACEC/PA member firms, have been significantly impacted by the loss of the safety net. ACEC/PA's member firms have seen a rate of denial for UC that has generally ranged between 10-20% of their inspection workforce. My firm specifically has seen a higher rate of denial at approximately 35%. The higher rate that we have experienced is due to the role we usually provide as a subconsultant. Small DBE firms that typically perform as subs are hit harder by the law change because our inspectors are subject to an added layer of employment variance, namely the staffing decisions of our Prime Consultants which are typically the larger firms.

In addition to hardships suffered by the inspectors that have been impacted by Act 60, the negative effect has extended past those specific individuals that have been denied benefits. Inspectors that have not been denied yet are now aware and afraid that the safety net may not be there. Many have already left and many more are actively considering career changes.

The highly skilled, knowledgeable and experienced inspectors that we have lost to other states could come back. The recent and future engineering graduates could consider construction inspection in Pennsylvania as a career path. Act 89 was an investment in the future prosperity of the citizens of Pennsylvania. We must consider the workforce that will help deliver this investment and take steps to return the construction inspection discipline to the competitive career path it once was.

Madame Chair Baker, Madame Chair Tartaglione and Senator Wiley, thank you for allowing me to speak with you regarding the Unemployment Compensation and Seasonal Workers Issue that has had a huge impact on the construction industry.

My name is Tim Fahrney and I am the Construction Services Manager for Erdman Anthony. All of Erdman Anthony's construction inspectors report directly to me and I have seen firsthand how the unemployment rule has affected our employees.

Our inspection force is seasonal due to the type of work that is being performed and how the PennDOT specifications allow the work to be performed by the contractor. For example, you can't pave between November 1st and March 31st and the temperature has to be greater than 40 degrees during the paving season. The wearing course section of the pavement (top layer) in the northern Counties (including Erie County) can't be put down between October 1st and March 31st. There are many specifications that are temperature and time sensitive that generally will not allow the contractor to work between the December thru March timeframe. So normally the contractor will shut down during those winter months (especially in the northern counties). If there is any work going on within the project, most times it is only a skeleton crew and an inspector from PennDOT will cover the operations.

During the winter months when our inspectors are laid off it is hard for our inspectors to find work to supplement only working in construction inspection for 6 to 7 months. They want to work, but unfortunately are unable to due to the nature of our business. They have a hard time finding part time employment because they have no idea when they will be laid off or when they will be called back to work. In order to find a part time job, they are competing with all of the other individuals that are unemployed, but those individuals do not have any constraints (they can work anytime). Our inspectors are only able to work other jobs in the winter months. The employers of these short-term positions don't want to train employees and then have them leave in April to go back to inspection.

Let me highlight two examples that have happened to Erdman Anthony employees that I think will illustrate how this unemployment compensation rule has impacted the construction industry.

Example #1

I have an inspector (Paul McLaughlin) who has worked for Erdman Anthony for the past 15 plus years. He has travelled wherever we have asked him to go and he is willing do whatever it takes to get the job done (Work night shift, long hours, travel and stay away from his family, lots of OT, etc.). He worked on an Interstate 80 project where the contractor had a very tight schedule to rip out the existing pavement and replace the roadway with a new concrete pavement. Because the schedule was condensed due to permitting issues and they had to re-open the road in November, there was a lot of scheduled OT. Paul worked almost 300 hours of OT during his six month season, but 70% of that OT occurred in his third quarter which prevented him from collecting unemployment. There were other employees that collected unemployment because they didn't work as much OT in the third quarter. This rule penalizes individuals that work a lot of OT because generally the OT occurs in the 3rd quarter (July thru September). Paul almost lost his house because of the change in unemployment

rules. Paul said he would like to stay in the business that he has worked and been trained in for the last 15 plus years, but he cannot have another year where he doesn't get unemployment or the results could be devastating.

Example #2

Bill Rees has worked for Erdman Anthony for the last 10 years and he lives in McKean County. He started on a bridge project that was scheduled to go from early April timeframe to end of August timeframe. Erdman Anthony then had another bridge project for him to go to starting in late August or early September timeframe. However, due to circumstances outside of Bill's control, his next scheduled assignment never started due to a delay that forced the project to start the following spring and he was unable to finish his season. He wanted to work, but there were no other scheduled projects starting at that time. Because he only worked five months even though he was scheduled to work seven months, he was unable to collect unemployment.

It is this uncertainty of our business in these two examples that is driving people out of the construction industry. Since the change in unemployment, the rule has effected approximately 20% of Erdman Anthony's work force and we have had nine inspectors leave our company due to the rule change.

Derek and I will now take any questions that you have. Again, thank you for taking the time to listen to our concerns on the unemployment compensation and how it effects not only our employees, but the construction industry as a whole.