



Senate of Pennsylvania

February 2, 2022

The Honorable Tom Wolf
Governor
Office of the Governor
225 Main Capitol Building
Harrisburg PA 17120

Dear Governor Wolf:

We are writing this letter to request an allocation of \$4.1 million for 41 new enforcement officers for the Bureau of Labor Law Compliance (BLLC), to help prevent worker misclassification across the Commonwealth.

Worker misclassification occurs when an employer incorrectly classifies a worker as an independent contractor, rather than as an employee. This has a serious negative impact on workers; workers that are misclassified are not entitled to minimum wage or overtime, protection from discrimination, family and medical leave, the right to organize, workers' compensation, and unemployment compensation. They also are not entitled to employment benefits like medical insurance or retirement contributions and are responsible for paying the full payroll tax contribution to federal Social Security and Medicare programs.

Worker misclassification transcends any individual industry – a survey by the National Employment Law Project found high rates of misclassification not only in the construction industry but also among janitorial, home care, real estate, tech, local delivery, and trucking workers. Studies commissioned by the U.S. Department of Labor have indicated that up to one-third of audited employers are misclassifying workers. With the emergence of the gig economy, the problem is only growing; gig companies frequently take advantage of their position to impose terrible working conditions on their independent contractor employees. One study found that drivers for Uber and Lyft take home as little as \$4.82/hour when factoring in their expenses and time between rides, far below the minimum wage.

Currently, 24 investigators from the Bureau of Labor Law Compliance are charged with statewide enforcement of 13 statutes covering wage, hour, child labor, and other workplace conditions. These statutes include those related to worker misclassification. Since 2015, the BLLC has levied fines on over 790 construction contractors for misclassifying more than 3,440 workers which has resulted in over \$2.65 million in penalties under Act 72. Since 2018, BLLC has conducted over 600 on-site investigations of construction projects for worker misclassification. Many of these projects included state-funded Prevailing Wage Projects.

However, the BLLC is also woefully understaffed. New Jersey, the gold standard for the enforcement of worker misclassification, has 65 investigators, more than double the number in Pennsylvania despite a smaller population. This expanded workforce allows investigators to take on additional investigations and specialize in specific labor statutes. An increase in staffing for the BLLC

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would similarly enable the Commonwealth's investigators to effectively tackle its 4,000 to 6,000 annual cases, conduct more in-depth investigations and audits, initiate additional jobsite inspections, and specialize and develop expertise in one or more of the Commonwealth's 13 labor laws.

This increase in funding for the BLLC, amounting to less than 0.01% of the Commonwealth's budget, will dramatically reduce worker misclassification across the Commonwealth. This is also an expense that can pay for itself – the Keystone Research Center estimated that the Commonwealth lost more than \$37.5 million, and possibly as much as \$136.7 million, in unemployment compensation tax, income tax, and workers' compensation premiums in 2016 as a result of misclassification in the construction industry alone.

Worker misclassification is not a partisan issue; worker misclassification is a question of fairness. Contractors who misclassify their workers are stealing from workers, taxpayers, and our Commonwealth. These contractors are undercutting law-abiding businesses, forcing them to compete against organizations who are cutting corners and violating the law. By increasing funding for the BLLC and reducing worker misclassification, we can work to rectify this long-standing wrong in the Commonwealth.

Sincerely,



Senator John I. Kane
9th Senatorial District



Senator Nikil Saval
1st Senatorial District



Senator Christine Tartaglione
2nd Senatorial District



Senator Lindsey Williams
38th Senatorial District

cc: Honorable Jay Costa, Minority Leader
Honorable Vincent J. Hughes, Democratic Chair, Appropriations Committee