

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 and Madame Chair Tartaglione and members of the Senate Labor & Industry Committee. Thank you for the opportunity today to speak to you on behalf of the American Council of Engineering Companies of PA about the impacts that Act 60 has had on our industry and businesses.

My name is Janet Cunningham and I am president of JBC Associates, a small woman owned disadvantaged business (DBE) based in King of Prussia, PA. My firm provides professional construction management and construction inspection services. With me today is my colleague, Carlton Williams, Director of Construction Inspections for Johnson Mirmiran and Thompson an engineering consulting firm based in Philadelphia, PA.

Both my firm and Carlton's firm provide construction inspection services to PennDOT primarily in the eastern half of Pennsylvania. We employ Transportation Construction Inspectors who are responsible for observing construction operations to verify that the construction methods, quality, and materials used by the contractor are in accordance with the plans and specifications as designed and PennDOT standards. Additionally, the inspectors prepare daily reports that document the operations performed by a contractor and verify installed quantities for payment. In essence, our inspection teams ensure that a construction project is completed to the highest standard of quality to ensure the safety of the travelling public and in the most cost effective and efficient manner.

Transportation Construction Inspectors come from varying walks of life. Some are college educated with civil engineering degrees, some have two year technical degrees, and others just high school diplomas, but all are required to obtain industry training and certifications. They gain advancement through years of experience and maintaining their certifications. Inspectors are hard working individuals dedicated to their profession. Young people today have limited career options that do not require formal secondary education. Transportation Construction Inspection offers a competitive and lifelong career path to those individuals that may not have the desire or the resources to obtain a four year college degree.

How has Act 60 affected the Transportation Construction Inspector? Construction in Pennsylvania is seasonal. The seasonal layoff is something that an inspector has no control over. Many construction projects shut down for the winter. In most areas of the Commonwealth, asphalt plants shut down in October and do not reopen until March. This results in the inspectors being laid off for the winter season. If we have a wet spring, a project may be delayed in starting until May or June. Because projects are dependent on the weather, when the weather is good, contractors increase their operations and inspectors can work a significant amount of overtime. This occurs in the summer and fall months. As a result, the inspectors incur overtime in one or two quarters which may skew their

earnings disproportionately so that 50.50% of their earnings fall into one quarter, making them ineligible for unemployment compensation under Act 60.

Other factors such as funding constraints, contractor shutdowns, environmental issues, permitting, and schedule delays can affect an inspector's ability to have steady, predictable earnings. All of these factors are out of the control of the inspector and can result in their ineligibility for unemployment compensation under Act 60.

An inspector that is impacted by seasonal layoffs typically has earnings of \$25,000 to \$50,000 per year, depending on their classification. Many inspectors live paycheck to paycheck and a layoff without unemployment compensation creates a significant hardship for them and their families. In addition to supporting their families, by law, they are now required to buy health insurance during layoff periods which is prohibitively expensive, if not impossible, when you have no income.

How has Act 60 affected our businesses? Firms that provide Transportation Construction Inspection in Pennsylvania have had difficulty attracting and maintaining a qualified staff of inspectors. They have difficulty maintain continuity. We are losing inspectors to other states. Experienced inspectors are leaving Pennsylvania to perform inspection in neighboring states where they do not have the threat of Act 60. We in the Philadelphia region are especially sensitive to this as we border New Jersey, Delaware and Maryland. Many are just leaving the profession all together. The continual turnover makes it very difficult to build a quality workforce. Inspector training becomes very costly with the turnover. Businesses invest a significant amount of money into training individuals and quality inspectors are difficult to replace. Due to the seasonal nature of the work, it is difficult to attract new people into this industry, and when you do, it is difficult to retain them once they discover that they may be ineligible for unemployment compensation.

Small firms in particular have difficulty sustaining qualified inspection staff making it virtually impossible for new firms to get started in the inspection business. This has been particularly evident with women and minority owned firms who are subconsultants that fulfill project Diverse Business Enterprise (DBE) goals. As a subconsultant, there is an added layer of uncertainty because the Prime makes the staffing decisions and often times DBE inspectors are the last one placed on a project and the first one laid off, with very little notice.

In summary, with the significant increase in funding to support our infrastructure needs through Act 89 and future Federal funding, and the PennDOT Public-Private Partnership Rapid Bridge Replacement Program, we need to retain qualified inspectors and attract new individuals into the field of Transportation Construction Inspection to meet the increasing demand. Unfortunately, the opposite is happening. Pennsylvania is at a competitive disadvantage because many qualified inspectors are taking jobs in neighboring states or leaving the industry all together. A revision in the current eligibility requirements imposed by Act 60, enabling seasonal employees to collect unemployment benefits, would greatly improve the outlook for Transportation Construction Inspection in Pennsylvania.

Madame Chair Baker and Madame Chair Tartaglione and members of the Senate Labor & Industry Committee. 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 Carlton Williams, and I am a registered Professional Engineer in Pennsylvania. My firm, Johnson, Mirmiran & Thompson, Inc. (aka JMT), is a full service engineering firm, practicing in

Pennsylvania. We have an office here in Philadelphia, one block away from City Hall. While we offer a full range of services, a significant portion of them includes providing Construction Inspection Services on Public Works construction projects here in Philadelphia and throughout the state. As Director of Construction Inspections for JMT's Philadelphia office, my primary responsibilities encompass recruiting and overseeing a qualified and dedicated staff of Transportation Construction (TC) inspectors. I thank the committee for this opportunity today, as I am here to address the impact that Act 60 will have upon these men and women if it continues to remain unchanged. My colleague, Janet and I are here on behalf of the American Council of Engineering Companies of Pennsylvania. ACEC/PA which represents approximately 120 engineering firms in Pennsylvania. Our membership employs well over 9,000 engineers and over 1,500 construction inspectors on projects across the state for PennDOT, Pennsylvania Turnpike Commission, City of Philadelphia, local municipalities and transit agencies. We represent a significant portion of the State's workforce that will be negatively impacted far beyond the expectations of the planned intent of Act 60. Our workforce contributes to a significant industry for Pennsylvania and is a vital resource to improving its infrastructure. Without changes to Act 60, Pennsylvania's transportation industry faces the increased probability of losing more qualified individuals when it's now that we need them the most. As such, we urge the committee to implement the necessary revisions to Act 60 that will better work in support of the transportation construction industry and reflect the seasonal work structure under which we function in Pennsylvania.

Our workforce provides a valuable service to Pennsylvania thru our contributions to the success of the State's transportation projects. Pennsylvania is currently experiencing an unprecedented reinvestment in its infrastructure that includes various multi-million dollar projects to repair, replace and/or modernize our roadways & bridges, railroads, utilities, and airports. As a result, there is a great need for knowledgeable and experienced construction inspectors to staff these projects, especially in southeastern PA, as the inspector is relied upon to verify that quality assurance is being maintained in the construction work being performed in accordance with State and federal requirements. JMT has been blessed to grow here in Philadelphia over the past 8 years thru being able to recruit and hire talented, hard-working residents of the City and Delaware Valley, both experienced and entry-level, to become qualified TC inspectors working primarily on road & bridge construction projects for Philadelphia's Streets Dept and PennDOT.

I believe it important that this committee understand that the service our workforce provides comes at great risk for them, as few options exist for them to manage in the off-season if unemployment is not available to "compensate" for this risk that they take. The safety net that unemployment compensation has provided in the past to mitigate the variables affecting the construction season for our inspectors has been severely diminished by Act 60. There are only a certain number of qualified and knowledgeable inspectors throughout the state of Pennsylvania at any given point in time. And, due to many factors discussed, which now includes Act 60, that number is continually shrinking rather than growing. During the years immediately prior to the passage of Act 89, when there was not a lot of construction work in Pennsylvania, many qualified inspectors took their knowledge and skills to neighboring states in order to find inspection work. Transportation agencies in those states, particularly New Jersey, pay significantly higher hourly rates (as much as \$10.00 per hour per labor classification) than Pennsylvania for inspectors with similar knowledge and certifications. Now that Act 89 has passed and construction work is plentiful here, most inspectors who have gone to work over there don't want to return to Pennsylvania and work at the lower Pennsylvania rates. While not a lot can be done to keep us from losing inspectors due to lower pay rates, we certainly shouldn't exacerbate the situation and risk not meeting our responsibilities for quality assurance by continuing to lose inspectors due to the effects of Act 60. Our workforce is holding up their "end of the bargain" and then some because their investment

in this industry has so much greater of a downside. It's not fair for them to now be penalized for working within the existing constraints of the industry.

If I can share with you an example of the risk we face, we have an inspector who lives in the State College area. He came to JMT in 2009 and worked in Philadelphia for almost six (6) years, living out of an apartment or hotel, because there was no inspection work in the area where he lives. Fortunately, our firm recently won a construction inspection project closer to his home and he was finally able to return to his area about a month ago, but now he faces the threat of not qualifying for unemployment in future years, as he will undoubtedly face winter layoffs in this rural PennDOT District. Considering such, his outlook may be better to return to working outside of his district, further away from his home to avoid loss of much needed income from not receiving unemployment compensation. That's a huge compromise to have to make in order to give a family the best quality of life you can.

Over the course of my career, I have transitioned from being a Land Development Design Engineer until the last Recession led my career path to change. Since then, I have been able to maintain my current path and prosper from construction inspections to management in part because unemployment compensation was available for me and my family when I needed it during seasonal layoffs, before Act 60 was put into effect. Without the temporary safety net that unemployment compensation is meant to provide, I would have been in that position (that our inspectors may find themselves now) of having to leave our industry (most likely), in order to pay bills, retain my home or keep my kids in their school.

The lack (and growing loss) of available qualified TC inspectors has increased the opportunities for new inspectors to enter and grow in this industry, in many situations, helping people that came from jobs with limited earning potential or were un-employed for months or years. New career opportunities for women and minorities has grown with the abundance of projects funded thru Act 89, especially here in the Philadelphia area. The opportunity to increase diversity in the ranks of inspectors, managers and engineers is greatest now, but stability and security is always a primary need for people. Where employers already struggle to mitigate the competing wages and provide job security in order to attract new workers, Act 60 further impedes our efforts to grow this market in southeastern PA, until it is revised to function in step with the structure of one of Pennsylvania's most significant industries.

In summary, our industry is being further constrained by the instability that Act 60 creates. Infrastructure is a foundation to build upon and Pennsylvania's efforts should be towards making the careers in the transportation construction industry as attractive here as (if not more than) in other states and industries. First thru revising Act 60. Although its intent is to preserve the system so unemployment compensation is available for Pennsylvanians when we need it most, the reality is that it may not be available at all for a significant portion of the State's workforce, thru no fault of their own.

Accordingly, we are here today, respectfully requesting that you and your committee to take swift and corrective action against all the factors within your control that are driving people out of the construction industry. We request that you create and implement a revision in the current eligibility requirements imposed by Act 60, enabling seasonal construction industry employees to collect unemployment benefits. This action alone would greatly improve the outlook for Transportation Construction Inspection in Pennsylvania.

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