

**WRITTEN TESTIMONY OF RICK GRIMALDI
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**HEARING ON THE IMPACT THAT CHANGES TO THE UNEMPLOYMENT
COMPENSATION SYSTEM HAVE HAD ON SEASONAL WORKERS**

**BEFORE THE PENNSYLVANIA SENATE LABOR & INDUSTRY COMMITTEE
OCTOBER 6, 2015**

I. INTRODUCTION

Chairperson Baker, Chairperson Tartaglione and members of the Committee, thank you for inviting me to testify at the hearing today. My name is Rick Grimaldi and I am a partner with the law firm of Fisher & Phillips and the Practice Group Chair of the firm's Government Solutions Practice Group. Through its 31 offices across the United States, including my office in Philadelphia, and the over 300 attorneys employed by the firm, Fisher & Phillips represents employers, large and small, in all facets of labor and employment law including those impacting seasonal workers. Drawing on the combined experience of the attorneys with my firm, my clients' and my background as Deputy General Counsel to Governor Tom Ridge, as well as my role as the Chief Counsel of the Pennsylvania Department of Labor & Industry, I am here today to provide the Committee with a unique perspective on the relationship between seasonal workers in Pennsylvania and changes that were made to the Commonwealth's unemployment compensation system through the passage of Act 60 in 2012.

The purpose of today's hearing is to discuss Act 60 and, specifically, its impact on seasonal workers in Pennsylvania. In order to have a full and well-informed discussion on the issue, I believe it first makes sense to very briefly discuss the circumstances that resulted in the passage of Act 60 and the relevant reforms to the unemployment compensation system that were included in Act 60.

II. HISTORY

During and after the Great Recession, Pennsylvania experienced a multi-billion dollar deficit in the Unemployment Compensation Trust Fund that forced the Commonwealth to borrow billions of dollars from the federal government. In just a two year period, between the 2nd quarter of 2008 and the 2nd quarter of 2010, what was a \$1.7 billion surplus became a \$3 billion deficit. At the time Act 60 was passed, Pennsylvania owed nearly \$4 billion to the federal government. In the absence of action to address this fiscal crisis, Pennsylvania employers would have experienced significant tax increases.

III. ACT 60 REFORMS

After intensive negotiations, Act 60 passed the General Assembly with bipartisan votes in both chambers. By (1) refinancing the fund's outstanding debt and (2) implementing structural reforms, Act 60 placed the fund on a course towards long term sustainability. One of the structural reforms included in Act 60 was adjusting benefit eligibility requirements. Under Act 60, the threshold percentage of base-year wages earned outside the highest quarter of earnings was increased from 37 percent to 49.5 percent. The requirement that workers earn 49.5 percent of their annual income outside the highest quarter of earnings in order to be eligible for unemployment benefits is what has impacted some seasonal workers in Pennsylvania.

IV. CURRENT STATUS OF UNEMPLOYMENT COMPENSATION TRUST FUND

While significant strides have been made through the passage of Act 60, Pennsylvania's Unemployment Compensation Trust Fund is not in the clear. As we learned during the Great Recession when the fund ran a \$4 billion deficit in just two years, the fund could easily find itself billions of dollars in debt with another economic downturn. The reforms included in Act 60, and particularly the adjustment to the percentage of earnings that must be made outside the highest

quarter of earnings, were specifically intended to ensure the long term viability and solvency of the fund. The requirement that a worker earn 49.5 percent of his or her annual income outside the highest quarter of earnings saved the Unemployment Compensation Trust Fund \$136 million in 2013 alone.

I believe the data shows that Act 60 has resulted in a savings to employers with seasonal employees. Our firm represents the largest gated resort in the Pocono Mountains. This employer has experienced the costs savings ushered in by Act 60 firsthand. Prior to the passage of Act 60, this employer was experiencing significant issues with seasonal workers, such as lifeguards and members of the kitchen staff, qualifying for unemployment benefits, imposing an increased financial burden on the employer through higher contributions to the fund. Since Act 60 was passed, however, none of the employer's seasonal workers have qualified for unemployment benefits. This change has saved the employer a significant amount of money through lowered contributions to the fund.

The above example is but one that makes it clear that Act 60 is working as intended and the Commonwealth cannot afford to begin taking the Act apart piece by piece just a few years after it was passed without making corresponding reductions to benefits to ensure the solvency of the fund. A piecemeal approach to changing Act 60 that does likewise address the fund's long term solvency could and most likely would put the fund at risk of again incurring significant debt obligations during the next economic downturn.

V. CONCLUSION

The requirement that an individual earn at least 49.5 percent of wages outside the high quarter of earnings in order to be eligible for unemployment benefits is fair and consistent with the purpose of the unemployment compensation system. The unemployment compensation system

was never intended or designed to be an annual stop gap measure that provided benefits to and supplemented the income of seasonal workers. Rather, unemployment compensation benefits were meant to provide supplemental income, for a set period of time, to those individuals in Pennsylvania who unexpectedly found themselves out of work while they searched for new employment. Through the changes ushered in by Act 60, the Unemployment Compensation Trust Fund is on a trajectory to be on sound economic footing and able to provide unemployment benefits to those Pennsylvania residents who unexpectedly find themselves out of work. This path to financial stability could, however, be thrown off course if additional people, such as some seasonal workers, would again qualify for unemployment benefits without also a reduction in benefits for those individuals who already qualify for unemployment benefits. The alternative is to increase taxes on employers to cover the costs associated with expanding the pool of individuals who would be entitled to receive unemployment benefits, a course of action that would unquestionably kill jobs in Pennsylvania and put an additional burden on already strained employers.

Again, I appreciate the opportunity to testify and would be happy to answer any questions you may have.