pennsylvania
DEPARTMENT OF LABOR & INDUSTRY

ACT 85 OF 2020

JOINT TASK FORCE ON MISCLASSIFICATION OF EMPLOYEES

ANNUAL REPORT

MARCH 1, 2022

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INTRODUCTION FROM THE CHAIR

Dear Members of the General Assembly:

As the designee of Pennsylvania Department of Labor & Industry (L&I) Secretary Jennifer Berrier, I have had the honor of serving as the Chair of the Joint Task Force on Misclassification of Employees since its first meeting on January 22, 2021. I serve as the Deputy Secretary for Safety and Labor Management Relations (SLMR) which includes the Bureau of Labor Law Compliance.

Therefore, it is my privilege and pleasure, as required by Act 85 of 2020, to present to you this preliminary report which seeks to provide the General Assembly with a more comprehensive understanding of the worker misclassification issue and its impact on all regions, business sectors, and governmental agencies of the commonwealth.

Simply put, my fellow task force members and I have concluded that the future of effectively addressing worker misclassification in the Commonwealth of Pennsylvania lies in the legislative initiatives that the Task Force recommends to the General Assembly in this report.

Indeed, this report is based on comments, considerations, and presentations offered to the Task Force by groups and individual workers during sessions held every month since its organizational meeting on January 22, 2021, and was reviewed by every task force member as part of a formal consideration process which included the opportunity to provide rebuttal statements with this report.

During these monthly meetings, the Task Force heard from several individuals and a variety of groups about just how vexing and pervasive worker misclassification has been throughout the commonwealth, how it has touched every region, and how almost every sector of the state's economy has been impacted, including the public bidding process.

As a first step, the Task Force began its efforts by hearing from governmental agencies, such as L&I, Revenue, and the Attorney General's Office, about how those law enforcement agencies are presently policing the misclassification issue and the obstacles each faces and what those groups would need to address worker misclassification more effectively pursuant to their respective authorities and prerogatives.

The Task Force also heard from the New Jersey Labor Commissioner, who explained how his state used a similar task force approach to identify issues on the worker misclassification front and what initiatives the New Jersey legislature enacted to provide his department with the necessary tools needed to come to the aid of workers impacted by misclassification.

We also heard from the Pittsburgh Construction Misclassification Task Force, which has been on the frontlines of the misclassification issue in the city of Pittsburgh for the last three years. They discussed how they identified issues, such as fraud schemes and what can be done to take on these bad actors, and how the misclassification problem has gone beyond commercial construction and is now occurring on residential construction projects as well.

Thereafter, the Task Force devoted time to hearing from individual workers and how misclassification is impacting their daily lives. This was done through presentations by Community Legal Services of

Philadelphia and Philadelphia Legal Assistance. The Task Force heard from misclassified workers in therapeutic health care, home health care, retail sales delivery routes, and childcare about their situations and the severe tax consequences they face.

We also heard from members of the nonprofit organization Rebuilding American Values who explained the need for tracking misclassification violators and the types of misclassification schemes and violations. It even identified how misclassification distorted the public bidding process, a problem that should be actively considered by the General Assembly.

The Task Force then learned from a Representative of the General President of the United Brotherhood of Carpenters and Joiners of America and the Delaware County District Attorney about how labor brokers exacerbate the worker misclassification problem and how to hold labor brokers accountable, even to the point of initiating criminal prosecutions where appropriate.

Pursuant to Act 85, the Joint Task Force will continue its investigation and review of this worrisome misclassification problem to seek a better understanding of what workers and law-abiding businesses are up against and how best to address those concerns and issues with effective proposals in its final report due in December 2022.

In the end, the Task Force would like to reiterate the plain fact that worker misclassification is a widespread and vexing problem in the commonwealth. It is not an issue that breaks down along Democratic or Republican political lines, nor liberal or conservative points of view, nor even an organized labor or non-union dispute.

Rather, it boils down to a question of fairness to workers, both low wage and highly compensated alike in rural and urban counties across the commonwealth, and fairness to law-abiding businesses that are forced to compete on an uneven playing field against competitors who cut corners, violate the law, and fail to pay their fair share of taxes, and ultimately fairness to working families, who are then required to pay higher taxes and may even lose vital protections. It is just that simple and straightforward.

So, on behalf of the Task Force, we hope that the legislature would consider our preliminary report. Please feel free to call on the Task Force and its membership to provide comment and answer any questions that may be prompted by our report.

Sincerely,

Basil Merenda, Esq.
Chair, Joint Task Force on Misclassification of Employee
Deputy Secretary for Safety and Labor-Management Relations
Pennsylvania Department of Labor & Industry

MISCLASSIFICATION IN PENNSYLVANIA BY THE NUMBERS

7.9: Average number of misclassified employees found per Office of Unemployment Compensation Tax Services (OUCTS) audit (based on 2020Q3 to 2021Q2 data)

11,670: Estimated number of misclassified employees who suffered injury or illness at work and were denied Workers' Compensation in 2020.

49,266: Annual number of employers who currently misclassify at least one employee (estimate based on 2020Q3 to 2021Q2 data)

389,000: Annual number of misclassified employees in Pennsylvania (estimate based on 2020Q3 to 2021Q2 data)

$440,780.86: Estimated losses to the Uninsured Employers Guarantee Fund (UEGF) due to misclassification in 2020.

$131,000,000: Annual lost revenue to UC Trust Fund due to misclassification (estimate based on 2020Q3 to 2021Q2 data)

$6.4 million to $124.5 million: Estimated range of lost revenue to General Fund due to misclassification in tax year 2019 (source: PA Department of Revenue)

$176,312,343.90: Estimated losses to misclassified employees who suffered injury or illness at work in 2020 without workers' compensation insurance.

All estimates and figures were generated by the PA Department of Labor & Industry unless otherwise noted.

THE PROBLEM: MISCLASSIFICATION OF EMPLOYEES

Misclassification of employees occurs when an employer wrongfully classifies a worker as an independent contractor when the nature, type, and oversight of their work determines that they are an employee under the law.

Each year, misclassification deprives hundreds of thousands of Pennsylvania workers who should be classified as employees of certain wage, workplace, health and safety, and unemployment protections and benefits under Pennsylvania law. Misclassification makes it harder for law-abiding businesses to compete and succeed.

This is not a new problem for the commonwealth or the United States, but it has become more common, more intentional, and more harmful to the wellbeing of Pennsylvanians and the competitiveness of the commonwealth. It costs individual workers millions of dollars in lost wages, in medical bills, and in denied unemployment compensation claims. It costs law-abiding businesses millions in profit and opportunity to expand through losing bids in the competitive bidding process. And it costs state government and taxpayers tens of millions of dollars annually.

Historically, misclassification as an unfair labor practice dates back to the first half of the twentieth century. In Pennsylvania, the introduction of the Workers' Compensation Act of 1916 and, two decades later, passage of the federal Fair Labor Standards Act and Social Security Act expanded the rights and protections for workers and their families. But in breaking the law by misclassifying workers, some employers found they could avoid the costs associated with the workers' compensation system, minimum wage laws, and unemployment compensation taxes. This put law-abiding businesses at a profound competitive disadvantage, and still does in the present day.

For many years, misclassification has been most common in the construction, trucking, and delivery industries, sectors in which independent contracting has been utilized for decades. Independent contracting has increased over the past two decades thanks to new entrepreneurialism on the part of workers as well as the emergence of new business models like the online platform economy that have exploited some of the gray areas of existing labor laws.

Today, misclassification can be found throughout the economy across all industries from old fashion brick and mortar outlets to new app-based online platform businesses. It is occurring in a wide variety of occupations, including but not limited to home care aides; gig and online platform workers; workers driving for Uber and Lyft; freelance artists, writers, and web developers working from home; and the finishing trades—painters, glazers, and drywall tapers—working on construction sites. It is used by small business, partnerships, local companies and multinational corporations, and nonprofit enterprises.

The available research supports that the prevalence of misclassifying workers has increased since the 1980s. Much of this research, however, either focuses on specific industries in particular states or, in the case of national studies by federal agencies, is several decades old. Taken together and across time, the available studies all conclude that misclassification is an endemic problem that is tremendously costly for workers, law-abiding businesses, and government agencies.

Here are examples of research across industries and occupations that speaks to the scope of the problem:

- A 1984 IRS study estimated that 3.4 million workers were misclassified, or approximately 3 percent of the January 1984 US labor force.[1]
- A 2000 study by the US Department of Labor examined employment practices in nine states and found that between 10 and 30 percent of employers had misclassified employees.
- A study of Michigan workers in 2003 and 2004 found that 8.4 percent of all workers were misclassified.[2]
- A 2015 analysis by the Economic Policy Institute found that 10 to 20 percent of all employers in the United States had misclassified at least one employee as an independent contractor.[3]

Simply put, these estimates provide a guide for understanding misclassification in Pennsylvania. By adapting the lower estimates cited in the studies to Pennsylvania data, we can conservatively estimate that over 35,000 Pennsylvania employers are misclassifying between 176,000 and nearly 495,000 workers.[4] Indeed, this is in line with the estimates of misclassification generated by the Department of Labor & Industry's Office of Unemployment Compensation Tax Services: that approximately 389,000 employees currently are being misclassified by over 49,000 employers in Pennsylvania.[5]

Interestingly, research about other states suggests that a small percentage of businesses that misclassify are responsible for a large percentage of misclassified employees. In other words,

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[1] "GAO-09-717: Employee Misclassification," United States Government Accountability Office, August 2009, page 10. https://www.gao.gov/assets/gao-09-717.pdf

[2] Dale L. Belman and Richard Block, "Informing the Debate: The Social and Economic Costs of Misclassification in the Michigan Construction Industry," Institute for Public Policy and Social Research, Michigan State University, 2009. http://www.iiiffc.org/pdf/Employee_Classification/MI%20Social%20&%20Economic%20Costs.2009.pdf

[3] Françoise Carré, "Briefing Paper #403: (In)dependent Contractor Misclassification," Economic Policy Institute, June 8, 2015. https://www.epi.org/publication/independent-contractor-misclassification/

[4] Based on Q4 2020 Pennsylvania Private Industry Employment (350,327 Employment Units) and August 2021 Pennsylvania Total Employment (seasonally adjusted). https://www.workstats.dli.pa.gov/Products/EmploymentBySize/Pages/default.aspx; https://www.workstats.dli.pa.gov/Documents/Monthly%20Press%20Releases/clf.pdf

[5] For more information on this estimate, refer to the section of this report on page 21 titled "Estimates of Lost Revenue."

employers that continually and deliberately misclassify workers are a significant source of the overall problem. In a study of Massachusetts between 2001 and 2003, researchers found that employers that misclassified employees had misclassified between 25 and 39 percent of their total workers.[6] In certain industries like construction, the problem of serially misclassifying employers in Massachusetts was even starker: employers misclassified 40 to 48 percent of their workers.

Undeniably, worker misclassification has serious costs to the financial and physical health of workers, to the economic competitiveness and fairness for law-abiding businesses, and to the fiscal health of critical public programs. Facts and analysis bear this out. The State of New Jersey recently sought over $650 million in unpaid unemployment taxes and fines from the rideshare company Uber covering the years 2015 through 2019 for misclassifying their drivers as independent contractors, when they clearly should have been considered employees under existing law.[7]

New Jersey is not alone in losing considerable and much needed revenue for its unemployment compensation system. In fact, a study by the U.S. Department of Labor estimated that if only 1 percent of American workers were misclassified, the cost to state unemployment trust funds would be at least $200 million.[8] Estimates vary as to the specific impact to state unemployment compensation trust funds and general funds.

A 2009 Michigan study estimated trust fund loses during 2003-2004 at $16.8 million and between $19.5 million and $32.5 million in lost income tax revenue. The study of Massachusetts estimated unemployment compensation trust fund losses at between $12.6 million and $35.1 million and state income tax losses between $91.5 million and $152 million from 2001 to 2003.[9]

It should be noted that this report includes estimates of revenue lost to the Unemployment Compensation Trust Fund, the Workers' Compensation Administrative Fund, and the General Fund in Pennsylvania (see page 17).

[6] Françoise Carré and Randall Wilson. 2004. *The Social and Economic Costs of Employee Misclassification in Construction.* (Massachusetts) 2004. Report of the Construction Policy Research Center, Labor and Worklife Program at Harvard Law School, and Harvard School of Public Health. December.

[7] Chris Opfer, "Uber Hit with $650 Million Employment Tax Bill in New Jersey," *Bloomberg Law*, November 14, 2019. https://news.bloomberglaw.com/daily-labor-report/uber-hit-with-650-million-employment-tax-bill-in-new-jersey

[8] "GAO-09-717: Employee Misclassification," United States Government Accountability Office, August 2009, pages 11-12. https://www.gao.gov/assets/gao-09-717.pdf

[9] Françoise Carré, "Briefing Paper #403: (In)dependent Contractor Misclassification," Economic Policy Institute, June 8, 2015. https://www.epi.org/publication/independent-contractor-misclassification/

[9] https://www.gao.gov/assets/gao-09-717.pdf

OVERVIEW OF ACT 85 AND THE WORK OF THE JOINT TASK FORCE IN 2021

The Joint Task Force on Misclassification of Employees was created when Governor Tom Wolf signed Act 85 (House Bill 716) into law on October 29, 2020. Act 85 called for the Joint Task Force to be comprised of seven members (or their designees) and chaired by the Secretary of Labor & Industry. The seven members include:

- The Secretary of Labor & Industry
  - Deputy Secretary Basil L. Merenda serves as Secretary Jennifer Berrier's designee
- The Secretary of Revenue
  - Deputy Secretary Brian Barbin serves as Secretary C. Daniel Hassell's designee
- The Attorney General of the Commonwealth of Pennsylvania
  - Chief Deputy Attorney General Nancy A. Walker serves as Attorney General Josh Shapiro's designee.
- An individual appointed by the Speaker of the House of Representatives
  - Mr. Hank Butler
- An individual appointed by the President Pro Tempore of the Senate
  - Ms. Joanne Manganello
- An individual appointed by the leader of the House Minority caucus
  - Mr. Lance Claiborne
- An individual appointed by the leader of the Senate Minority caucus
  - Mr. Drew Simpson

Act 85 included specific instructions and requirements to guide the work of the Joint Task Force:

1. Create a workplan that outlines how to approach its duties.
   - The Joint Task Force ratified a workplan in its February 2020 meeting and a copy of the workplan is included in the appendix of this report.
2. Examine and evaluate the commonwealth's existing enforcement efforts.
   - The Joint Task Force addressed these items in its February and March 2020 meetings.
3. Ensure commonwealth agencies are assessing penalties for violations of employee misclassification laws.
   - The Joint Task Force addressed these items in its February and March 2020 meetings.
4. Review current procedures and establish best practices for accepting and processing complaints.
   - The Joint Task Force received presentations and input from entities involved in enforcement and following up on complaints, and from interested parties with experience filing or addressing the material claims within complaints. Additional

information on the speakers and presentations heard by the Joint Task Force in determining best practices can be found in the appendix of this report.

5. Identify barriers that prevent commonwealth agencies from sharing information about and coordinating employee misclassification identification and enforcement.
   - The Departments of Labor & Industry and Revenue, the Office of the Attorney General, and the Delaware County District Attorney's Office identified such barriers that prevented information sharing and inhibited coordination.
   - At its June 2020 meeting, the Joint Task Force also heard from the New Jersey Commissioner of Labor, Mr. Rob Asaro-Angelo, who detailed the strategies his agency had developed in conjunction and the new legislation that originated with his own state's misclassification task force that together have helped overcome these barriers.

6. Develop recommendations for statutory changes as necessary to address worker misclassification more effectively.
   - Recommendations are included in this report on page 25.

7. Determine how much revenue is lost annually to the a) General Fund; b) Workers' Compensation Administrative Fund; c) and the UC Trust Fund because of employee misclassification.
   - Estimates are included in this report on Page 21.

8. Prepare a plan of action with businesses, labor organizations, and the community to increase public awareness of employee misclassification and to reduce its pervasiveness and harmful effects.
   - After spending the majority of its meetings in 2021 learning from workers, employers, enforcement and investigatory agencies, and advocates, the Joint Task Force intends to focus on increasing public awareness of the issue in 2022.[10]

The Joint Task Force got off to an excellent start with outstanding presentations, robust discussions, and perceptive question and answers sessions that included several insightful recommendations and suggested courses of action. During the first two regular monthly meetings, in February and March 2020, the Departments of Labor & Industry and Revenue as well as the Attorney General's Office explained how they address the misclassification issue and enforcing existing law.

Each of these commonwealth agencies identified the obstacles it faces and what it would need to address worker misclassification more effectively under their respective authorities and prerogatives. Despite those challenges, all three agencies explained that they are presently doing their best to bring bad actors that are misclassifying workers into compliance.

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[10] A calendar of presenters and presentations can be found in Appendix B.

Equally compelling, the Joint Task Force heard from several individuals and a variety of groups that explained with evidence and experience just how troublesome worker misclassification has been throughout the commonwealth and in every region and business sector of the commonwealth's economy.

In April, Steve Mazza and Joel Niecgorski from the Pittsburgh Construction Misclassification Task Force explained to the Joint Task Force how they have identified worker misclassification fraud schemes in commercial construction, what can be done to take on these bad actors, and how the misclassification problem now is occurring in residential construction as well.

Mr. Mazza and Mr. Niecgorski explained that typically contractors and even developers engage in these schemes through the payment of so called "off the books" cash payments to workers. They noted the widespread use by contractors of unscrupulous labor brokers to provide what amounts to a cheaply paid, no-benefit labor force, even on huge, multi-million-dollar construction projects.

Most disturbingly, they explained that the schemes of these bad actors place the law-abiding contractors at a considerable competitive disadvantage and forces them to face a stark dilemma. That is: to stay in business, they must cheat. So, the Pittsburgh group suggested requiring state licensing for labor brokers and whistle-blower protections for workers who report misclassification to the authorities, among other proposals.

At its May meeting, the Joint Task Force heard from the New Jersey Labor Commissioner, Rob Asaro-Angelo. He explained how his state used a similar task force to identify issues on the worker misclassification front and described what new laws the New Jersey legislature enacted to provide his department with the necessary tools to come to the aid of workers and law-abiding businesses impacted by misclassification. New Jersey's efforts to tackle the misclassification issue are truly impressive.

Many experts in the field, along with members of this Joint Task Force, consider New Jersey the "Gold Standard" for addressing worker misclassification. A link to the New Jersey Task Force report can be found here and is described in more detail on pages 14 and 15 of this report. [11]

In both June and July, the Joint Task Force devoted time to hearing from individual workers and their perspectives on how misclassification is affecting their daily lives. This was done through presentations by Community Legal Services of Philadelphia and Philadelphia Legal Assistance. The Joint Task Force heard from misclassified workers in therapeutic health care, home health care, retail sales delivery routes, and child care about their personal job situations and the severe financial and tax consequences they face.

In one case, the Task Force heard from a registered behavior technician who explained that she was classified as an independent contractor even though her employer chose her clients,

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[11] The full URL for the New Jersey Task Force report can be found here:
https://www.nj.gov/labor/assets/PDFs/Misclassification%20Report%202019.pdf

designated her work hours, directly supervised her services, and decided the treatment plan for her clients. In fact, her employer failed to fully compensate her even though the employer received full payment for services rendered from her client's insurance policy.

In another case, a child care worker had an agreement with the family that they would treat her as an employee, deduct taxes from her pay, and issue her a W-2. They never made the appropriate payroll deductions and instead sent her a 1099 after she had moved on to another position. This resulted in an IRS tax liability which she has had a difficult time paying.

In still another case, a snack delivery driver explained how he was forced to purchase a retail snack distribution route from his employer at exorbitant financing rates, how the employer dictated terms and conditions of the business relationship, and what could be sold on the route, as well as the route itself.

In August, Robert Wolper of the group Rebuilding American Values identified the need for tracking misclassification violators and violations in a very far-reaching presentation. He explained that much of the misclassification problem would lend itself to data tracking and went on to recommend the establishment of a database that includes up-to-date information on construction contractors and labor brokers and other labor trends that could be put to good use by policy makers and private parties alike.

In addition, Mr. Wolper's group highlighted an issue that may be overlooked: how misclassification distorts the public bidding process. The presentation pointed out how contractors that violate the law and misclassify workers, can underbid contractors that play by the rules. In this way, the misclassifying contractors win contracts from school districts and other governmental entities that in many cases are not the most responsible bids, as required by law.

Then at its October meeting, the Joint Task Force considered presentations from Matt Capece of the International Carpenters Union and from Jack Stollsteimer, Delaware County District Attorney, that drilled down on the effect of labor brokers. These presenters explained how best to hold labor brokers accountable across the board, which included initiating criminal prosecutions where appropriate.

District Attorney Stollsteimer explained how his office prosecuted a company, G&R Drywall, under the criminal provisions of Act 72 Construction Workplace Misclassification Act. G&R did work as a subcontractor with misclassified workers on a gym remodeling project in Delaware County. An investigation determined that the company's owner prepared documents for workers which included fraudulent social security numbers as part of his efforts to skirt the law.

In fact, DA Stollsteimer informed the Task Force that the misclassification and falsified documents in the G&R Drywall case led to the arrest of four individuals and resulted in $428,119.00 recovered for the Uninsured Employer Guaranty Fund (UEGF), as well as three

felony convictions, forty-eight days incarceration for the offending individuals, and the dissolution of the company.

In the end, this Joint Task Force has been ever mindful that its main goal is to put together a list of recommendations for addressing worker misclassification and a comprehensive and incisive final report for submission in December. The Joint Task Force submits that this preliminary report is a significant and substantial step toward achieving that goal.

OVERVIEW OF MISCLASSIFICATION TASK FORCES IN OTHER STATES

Since 2007, 29 states—now including Pennsylvania—have commissioned task forces to examine the problem of misclassification. Some states have authorized task forces by executive order, while others, like Pennsylvania, have created them through legislative action. Some have consisted solely of government investigatory and enforcement entities. Some states' task forces have been empowered to conduct enforcement while others have made substantial legislative recommendations that have since become law in those respective states.

In the last few years, misclassification has garnered renewed attention and states have devoted additional resources to understanding and addressing it. Since 2017, nine states have formed new or revitalized existing task forces to study this issue, to identify best practices for enforcement and public awareness, and to offer suggestions for legislative solutions.

Task Forces in New Jersey and Virginia have issued recommendations that have since become law. Other states' efforts to address misclassification have garnered national attention, most notably California's AB5 law, passed in 2019 and effective in 2020. AB5 created a single standard for determining whether a worker was an employee or an independent contractor across statutes and legal protections.

NEW JERSEY

On May 3, 2018, Governor Phil Murphy signed Executive Order 25 to create the New Jersey Misclassification Task Force in order to "promote fairness, fight against discrimination, and work to end unfair labor practices . . . that create an unfair advantage over companies that play by the rules and hurt our working families."[12] Over the next year, the Misclassification Task Force held three public hearings, signed memoranda of understanding with federal and state agencies to enhance data sharing and cooperation, and communicated in writing with more than 20,000 licensed accountants in New Jersey to provide information about the problem of misclassification.

The New Jersey Misclassification Task Force issued a series of recommendations, including legislative recommendations, in its final report delivered to Governor Murphy in July 2019. It encouraged the legislature to enact laws to:

- Require employers to post public notices about misclassification in order to educate workers and employers;
- Empower the New Jersey Department of Labor to issue faster and more effective administrative stop-work orders to facilitate investigations;
- Improve tax data sharing between state agencies and the New Jersey Department of Labor;
- Hold liable employers who misclassify or who rely on other employers that misclassify in supply chains, subcontracts, or joint employment relationships;
- Require misclassifying companies to pay investigatory costs and attorneys' fees; and
- Increase fines and penalties for misclassification.

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[12] https://www.nj.gov/labor/assets/PDFs/Misclassification%20Report%202019.pdf

In January 2020, Governor Murphy signed into law bills that increased penalties for misclassification (A5839); improved tax data sharing between state agencies (A5842); empowered the Department of Labor to issue stop-work orders (A5838); broadened the scope of employer liability for misclassification (A5840); and required employers to post in public places information about misclassification (A5843).

In July 2021, Governor Murphy signed additional legislation addressing misclassification, including bills that enhanced the Department of Labor's stop-work order authority by requiring employers to pay employees for the initial 10 days of a stop work order and allowing the state to sue employers on behalf of workers for non-payment of those wages (A5890); broadened further the information sharing between state agencies for the purpose of investigating and identifying misclassification (A5892); and created the Office of Strategic Enforcement to coordinate the enforcement of wage, benefit, and tax laws related to misclassification (A5891).

The work of the New Jersey Misclassification Task Force resulted in the passage of eight laws that strengthened powers of investigation and enforcement and increased public knowledge of misclassification. The full report, issued in July 2019, can be found here.

VIRGINIA

In 2018, Governor Ralph Northam signed an executive order to create the Inter-Agency Taskforce on Worker Misclassification and Payroll Fraud and reauthorized it in 2019. The Governor's 2019 executive order specifically directed the Taskforce to

- review statutes and regulations pertinent to misclassification and payroll fraud and recommend changes or propose new legislation or rules;
- determine whether the existing definitions of "employer" and "employee" are sufficient or whether the terms should be revised to align with current business practices and conditions of work;
- review and report on existing enforcement practices and make recommendations for improved interagency cooperation and joint enforcement;
- examine practices in other states and report on any best practices for education and outreach about misclassification;
- determine methods of accountability for businesses with state contracts that are found to committee payroll fraud or misclassification; and
- identify best practices for incentivizing compliance and penalizing non-compliance.

The Task Force issued a report to the Governor in November 2019 with 11 recommendations, reviews of existing state laws, and an analysis of other states' actions and initiatives to combat misclassification and payroll fraud. The 11 recommendations include calls for increasing penalties, providing workers with the ability to pursue a private legal action against misclassifying employers for damages, prohibiting employers that have been found to have misclassified employees from receiving public contracts for a period of time, educating the public, and better coordinating state agencies involved in investigating and enforcing misclassification laws and regulations.

During the spring 2020 legislative session, Governor Northam signed three bills into law that addressed the Taskforce's recommendations on misclassification. HB984 allows employees to bring private legal actions for damages against employers that knowingly failed to properly classify their workers. HB1199 prohibits employers from retaliating against any employee or independent contractor who reports or plans to report misclassification.

Of the Virginia Task Force recommendations that became law in 2020, HB1407 is notable. HB1407 expands the presumption that an individual who performs services for remuneration is considered to be an employee, unless either the individual or the employer demonstrates that the worker is an independent contractor. It also establishes that the Virginia Department of Taxation is responsible for determining whether a worker is an independent contractor if either the worker or employer allege as much. Additionally, HB1407 also increases the penalties for misclassification for first (up to $1,000 per misclassified individual), second (up to $2,500 per misclassified individual), and third or subsequent offenses (up to $5,000 per misclassified individual). Finally, the Department of Taxation is to notify all public bodies of employers found to have misclassified individuals, who will then be prohibited from being awarded a public contract for a period of up to one year for second offenses and up to two years for third or subsequent offenses.

OVERVIEW OF COMMONWEALTH MISCLASSIFICATION LAWS AND ENFORCEMENT
DEPARTMENT OF LABOR & INDUSTRY

BUREAU OF LABOR LAW COMPLIANCE

The Bureau of Labor Law Compliance investigates and enforces the Pennsylvania Construction Workplace Misclassification Act (43 P.S. §§ 933.1– 933.17), commonly known as Act 72. Act 72 provides a definition of "independent contractor" for work in the construction industry together with a multi-part test for determining the status of a worker. Act 72 prohibits employers from misclassifying construction workers as independent contractors. All elements of the definition must be met for an employer to consider a worker an independent contractor.

Act 72 grants administrative enforcement powers to the Secretary of Labor & Industry (Secretary). The Department of Labor & Industry's (department) Bureau of Labor Law Compliance (BLLC or Bureau) enforces the Act on behalf of the Secretary. The Office of Attorney General and local district attorneys have concurrent jurisdiction for the prosecution of the Act's criminal provisions.

Act 72 provides for the imposition of criminal and administrative penalties against employers, or officers or agents thereof, which are found to have committed violations. Additionally, the Act empowers the Secretary to petition a court to issue a stop-work order mandating the partial or complete cessation of work at the site of an ongoing intentional misclassification.

Section 4(c) of the Act authorizes the Secretary to undertake remedial action if there is evidence establishing that a person has violated the Act. Section 10(a) explicitly prohibits an employer from discriminating in any manner or taking adverse action against any person for exercising any right protected by the Act, including the filing of a complaint with the department or informing any person about an employer's noncompliance. Section 10(b) makes clear that a complainant's failure to prevail on the merits on allegations of employer noncompliance does not remove the retaliation prohibition set forth in subsection (a), so long as the complainant's allegations were made in good faith. Finally, section 10(c) creates a rebuttable presumption that the taking by an employer of adverse action against a person within 90 days of that person's exercise of rights protected by the Act constitutes prohibited retaliation.

Section 14 of the Act requires the department to submit annually, by March 1, a report to the Pennsylvania General Assembly "detailing, to the maximum extent possible, data on the previous calendar year's administration and enforcement of [Act 72]." The department is permitted to include in the report all relevant facts and statistics that it believes to be necessary.

While Act 72 states that "The Department shall not be required to enforce this Act until adequate funding is appropriated." Despite never having received any additional funds for administering the Act, BLLC has continued to enforce all provisions of Act 72.

OFFICE OF UNEMPLOYMENT COMPENSATION TAX SERVICES

The Office of Unemployment Compensation Tax Services (OUCTS) processes tax returns, payments, and refunds; issues clearance certificates; and calculates rates for over 300,000 active employers that pay unemployment compensation (UC) taxes in Pennsylvania. OUCTS also registers approximately 30,000 new employers each year and establishes the rates for each employer annually.

OUCTS also maintains principal responsibility for ensuring employers are in compliance with the Pennsylvania Unemployment Compensation Law (PA UC Law). The PA UC Law provides that an employer's books and records may be audited by the Department of Labor & Industry, an action undertaken by OUCTS. OUCTS has authority to audit the records of employers whether they are or are not liable for UC taxes. Employers must maintain and, when necessary, make available for OUCTS for review, employment and payroll records, cash books, journal ledgers, and corporate minutes.

OUCTS audits ensure that employers' unemployment compensation tax contributions are accurate and complete. These audits also ensure that workers are properly classified as either employees or independent contractors according to definition of employment in Section 402(b) of the PA Unemployment Compensation Law. The Office of Unemployment Compensation Tax Services has approximately 65 audit and compliance agents in six regions across the state: Erie, Pittsburgh, Harrisburg, Norristown, Philadelphia, and Scranton. Collectively, OUCTS conducts approximately 3,000 to 4,000 audits annually.

BUREAU OF WORKERS' COMPENSATION

The Bureau of Workers' Compensation (BWC) has no specific authority regarding worker misclassification. The misclassification issue in workers' compensation typically arises when an employer rejects the claim of an injured worker by denying that the injured worker was an employee. This issue can arise in many types of industries.

The decision whether a worker was misclassified as an independent contractor by their employer is made by a Workers' Compensation Judge (WCJ) who determines whether an injured worker was an employee injured in the course and scope of employment. In 2021, WCJs decided in 13 cases that an injured worker had been misclassified as an independent contractor. When a judge determines that a worker was misclassified and the business failed to carry the requisite workers' compensation insurance, the BWC Compliance Section has the authority to file criminal charges under Section 305 of the Workers' Compensation Act. If the employer is found guilty of these charges, penalties may include imprisonment, fines, and

restitution. All fines paid are distributed to either the Attorney General's Office or the county of the prosecuting District Attorney.

The Bureau refers all findings of misclassification to both the Bureau of Labor Law Compliance and Unemployment Compensation Tax Services for further investigation.

Misclassification appears to be under-reported in many states including Pennsylvania. The IRS has estimated that approximately 15 percent of employers engage in misclassification of employees.[13] Assessments to the Workers' Compensation Administration Fund (WCAF) are partially based on the earned premiums reported by insurers and compensation paid by self-insurers. Misclassification of workers reduces these reported figures and subsequently results in a lower calculated assessment.

Misclassification also impacts the Uninsured Employers' Guaranty Fund (UEGF). Any employee who is injured while performing their duties and whose employer does not carry the requisite workers' compensation insurance, may file a petition against the UEGF. If the petition is granted by a WCJ, the UEGF is then secondarily liable for payment of compensation and medical bills if the employer defaults. Through October 2021, four claims involving reported misclassification, as identified by a WCJ, were granted, resulting in approximately $29,000 of benefit payments and claim-associated costs to date and these costs will continue to grow throughout the life of each claim. Again, this number is likely underestimated due to improper or no reporting.

DEPARTMENT OF REVENUE

The Pennsylvania Department of Revenue (DOR) requires reporting and payments for both W2 and 1099 income and mandates that information returns must be filed with DOR for both employees and non-employees. Where an individual's Pennsylvania payments exceed $5,000, non-resident contractors and lessors have mandated withholding, while income amounts less than $5,000 do not require withholding. Non-resident pass through entity owners also have mandated withholding of Pennsylvania income.

DOR processes allow the department to match information returns with payers' W-2 and 1099 forms, which is matched with individual tax returns to ensure that all appropriate people contribute to the cost of government.

Regarding compliance and enforcement actions, DOR uses 1099 returns to discover unregistered businesses and to ensure that both income and sales taxes are reported and paid. The department also uses IRS tax return information to identify and pursue Pennsylvania

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[13] "GAO-09-717 Employee Misclassification: Improved Coordination, Outreach, and Targeting Could Better Ensure Detection and Prevention," United States Government Accountability Office, August 2009, page 10. https://www.gao.gov/assets/gao-09-717.pdf.

individual income tax non-filers. While DOR has some data sharing agreements with the Department of Labor & Industry's unemployment compensation division, confidentiality requirements at both the state and federal level place limitations on what and how much information can be shared.

DOR has several enforcement efforts in place to ameliorate the potential Pennsylvania Income Tax (PIT) loss due to the misclassification of employees. These include two notable measures. First, non-resident withholding is required for payors of Pennsylvania-source income to non-residents receiving non-employee compensation, including payees which are single member disregarded LLCs receiving such income. Second, DOR compliance programs leverage IRS information returns (other than W-2s) to identify and collect delinquent taxes from PIT non-filers and underreporters.

PENNSYLVANIA OFFICE OF THE ATTORNEY GENERAL

The Pennsylvania Office of Attorney General established the Fair Labor Section ("FLS") in 2017. FLS is tasked with enforcing workplace laws to level the playing field for law-abiding employers and protect working Pennsylvanians. To accomplish its mission, FLS undertakes both civil and criminal litigation as well as policy advocacy. The Construction Workplace Misclassification Act (Act 72), 43 P.S. §§ 933.1-933.17, vests the Office of Attorney General concurrent authority with District Attorneys to criminally prosecute intentional misclassification of employees as independent contractors, a practice which hurts workers, tax payers and law-abiding contractors.

Act 72 sets out a clear, multi-factor test to distinguish employees from independent contractors. Under § 933.5, employers that intentionally misclassify employees as independent contractors may be charged with a third-degree misdemeanor for a first offense, and a second-degree misdemeanor for second and subsequent offenses. Employers that negligently misclassify workers may be charged with a summary offense. To the extent that acts or omissions that form the factual basis for criminal charges under Act 72 may also be sufficient to establish the elements of other crimes, employers may face additional charges under Title 18 of the Pennsylvania Consolidated Statutes and Title 77 of the Pennsylvania Statutes.

FLS has worked with County District Attorneys, such as Delaware County, to launch innovative pilot programs to prosecute violators of Act 72 jointly, and to increase awareness of misclassification among District Attorneys' Offices throughout the commonwealth. The program has led to successful prosecutions and interest among additional District Attorney's Offices.

ESTIMATES OF LOST REVENUE DUE TO MISCLASSIFICATION OF EMPLOYEES

Precise data on the scope of misclassification is limited. The best available studies are either focused on specific industries and on specific states or are several years or decades old. For instance, state agencies and the federal government continue to rely on a comprehensive study of misclassification conducted by the IRS in 1984. Since then, the growth of the online platform economy and overall gig economy has increased the prevalence of both legitimate independent contracting and improper misclassification of employees as independent contractors. While an updated analysis by the IRS has been expected for over a decade, no new study has yet been published. With that being said, the estimates that follow are based on Pennsylvania data and are consistent with the findings in other recent, state analyses.

UNEMPLOYMENT COMPENSATION TRUST FUND

- **$131,000,000 lost annually**

The Office of Unemployment Compensation Tax Services (OUCTS) conducts regular audits of employers to ensure compliance with the Pennsylvania Unemployment Compensation Law (PA UC Law). In the process of conducting these audits, OUCTS may determine that employers have misclassified workers as independent contractors when they should be classified as employees under Section 402(b) of the PA UC Law. Misclassification of employees, whether intentional or accidental, deprives the misclassified employees of access to unemployment compensation benefits that they should be eligible for based on their employment status. Additionally, misclassification of employees results in lost revenue to the Unemployment Compensation Trust Fund.

The following estimate reflects data from the quarterly federal ETA 581 (UC Contribution Operations) Report for 2020Q3-2021Q2 and is based on the estimate by the Internal Revenue Service that 15 percent of employers in the United States misclassify employees.[14]

During the reporting period between 2020Q3 and 2021Q2, the average number of UC-covered employers in Pennsylvania was 328,440. During audits conducted by OUCTS during this time, the average number of misclassified or unreported employees detected per audit was 7.9; in other words, each audit uncovered nearly eight unreported or misclassified employees. The average unreported contributions per misclassified employee in these audits conducted from 2020Q3 and 2021Q2 was $336.

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[14] This IRS estimate is based on a 1984 study. Subsequent analyses by the Government Accountability Office and the Congressional Research Service, a branch of the Library of Congress, have noted that the IRS is or should be in the process of conducting a new analysis with updated figures, but as of the writing of this report the 1984 figure is the most recent IRS estimate. Given changes to business models and employment practices since 1984, it is possible that this is a low estimate. https://www.gao.gov/assets/gao-09-717.pdf

Applying the IRS estimate that 15 percent of employers misclassify employees to Pennsylvania's UC-covered employers results in an estimate of 49,266 employers that misclassify employees in Pennsylvania. This estimate of misclassifying employers (49,266) multiplied by the average number of misclassified or unreported employees detected by OUCTS audits (7.9) produces an estimate of approximately 389,000 misclassified or unreported employees.

To determine an estimate of the overall tax revenue lost to the UC Trust Fund because of misclassification, the average underreported contributions per misclassified employee determined by OUCTS audits ($336) is multiplied by the estimate of misclassified or unreported employees (389,00).

This produces a final estimate of $131,000,000 in revenue lost to the UC Trust Fund annually due to misclassification of employees.

WORKERS' COMPENSATION ADMINISTRATIVE FUND

- **$440,780 lost to the Uninsured Employer Guaranty Fund (2020)**
- **$176.3 million lost compensation to injured or ill workers (2020)**

Misclassification appears to be under-reported in many states including Pennsylvania; however, recent statistics from PA Unemployment Compensation estimate the number of misclassified workers in Pennsylvania to be around 389,000. Statistics from the 2020 PA Workers' Compensation and Workplace Safety Annual Report (Annual Report) state that the Total Injury and Illness Rates in Pennsylvania stand at about 3 percent or 30 out of every 1,000 workers. This would estimate that the number of misclassified workers who potentially suffered an injury or illness in 2020 is approximately 11,670.

There were 177,864 claims that were compensable for at least part of the same 2020 Annual Report period and $2,687,198,938 in compensation paid in that period. This works out to approximately $15,108.17 in compensation paid per claim. Using these figures, we estimate a loss of $176,312,343.90 in compensation paid.[15]

Due to the budgetary nature of the Workers' Compensation Administrative Fund, the impact of misclassification is felt more by the Self-Insured Employers and Insurers. The assessment percentage each individual organization pays is partially based on the earned premiums reported by insurers and compensation paid by self-insurers. Misclassification of workers reduces these reported figures and subsequently results in a lower calculated assessment percentage.

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[15] Due to lack of historical data and absence of mandated workers' compensation reporting in the misclassification arena, exact figures on the impact of worker misclassification on the PA workers' compensation administrative fund or the Uninsured Employers' Guaranty Fund are speculative.

The larger Workers' Compensation impact from misclassification is to the Uninsured Employers' Guaranty Fund (UEGF). Any employee who is injured while performing their duties and whose employer does not carry the requisite workers' compensation insurance, may file a petition against the UEGF. If the petition is granted by a WCJ, the UEGF is then secondarily liable for payment of compensation and medical bills if the employer defaults. UEGF is funded by a 0.25 percent assessment on all compensation paid. Using the figure above of $176,312,343.90 we estimate that lost revenue to the UEGF would be approximately $440,780.86. This number is strictly just lost assessment revenue. Since January 2021, four claims involving reported misclassification, as identified by a WCJ, have been granted, resulting in approximately $29,000 of benefit payments and claim-associated costs to date and these costs will continue to grow throughout the life of each claim.

GENERAL FUND

- **Between $6.5 million and $124.6 million in lost revenue (2019)**

The Pennsylvania Department of Revenue (DOR) utilized a National Employment Law Project report of multiple studies of misclassification and revenue loss in other states to estimate of revenue lost to the General Fund due to misclassification of employees.[16] While estimates of lost revenue to state treasuries range significantly and are based on the various tax structures in those states, DOR adapted estimates from the neighboring states of Ohio, New York, and New Jersey for Pennsylvania data for the respective study year. A ratio of the state's personal income to Pennsylvania in the year of the study is applied to the wages impacted, then the Pennsylvania tax rate of 3.07 percent is applied to that product to arrive at the PA tax impact. DOR adjusted the tax impact estimate for 2019.

When basing the analysis on a 2009 study of misclassification in Ohio that measured unpaid income tax, the estimate of lost revenue to the Pennsylvania General Fund in 2019 is $124.6 million.

When basing the analysis on a 2018 study of misclassification in New Jersey based on assessed payroll figures, the estimate of lost revenue to the Pennsylvania General Fund in 2019 is $17.5 million.

When basing the analysis on a 2014 study of misclassification in New York based on assessed payroll figures, the estimate of lost revenue to the Pennsylvania General Fund in 2019 is $6.5 million.

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[16] "Independent Contractor Misclassification Imposes Huge Costs on Workers and Federal and State Treasuries," National Employment Law Project Policy Brief, October 2020. https://s27147.pcdn.co/wp-content/uploads/Independent-Contractor-Misclassification-Imposes-Huge-Costs-Workers-Federal-State-Treasuries-Update-October-2020.pdf

In summary, misclassification cost the General Fund between $6.5 million to $124.6 million in 2019.

						Personal Income		PA PIT Estimate	
State	Year	Measure	Amount	Tax Rate	Wage Estimate	State	PA	Study Year	2019
OH	2009	Unpaid Income Tax	134.5	5.93%	2,270.0	412,219	513,386	86.8	124.6
NJ	2018	Assessed Payroll	462.0	NA	462.0	597,005	716,337	17.0	17.5
NY	2014	Assessed Payroll	316.0	NA	316.0	1,105,908	619,079	5.4	6.5

Annual Losses Due to Independent Contractor Misclassification: Summary of Leading State Studies ($M)[17]

Source: Pennsylvania Department of Revenue.

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[17] Note on Methodology:
1) Estimates of income tax foregone or payroll assessed were retrieved from a collection of state studies on worker misclassification collected by the National Employment Law Project (see previous footnote for link).
2) When tax impacts were presented, the top marginal rate of the state is applied to arrive at payroll/wages impacted.
3) A ratio of the state's personal income to Pennsylvania in the year of the study is applied to the wages impacted, then the Pennsylvania tax rate of 3.07 percent is applied to that product to arrive at the PA tax impact.

RECOMMENDATIONS OF THE JOINT TASK FORCE TO THE GENERAL ASSEMBLY

The following 15 recommendations were approved unanimously by the Joint Task Force at its January 28, 2022, meeting.

1) The Joint Task Force recommends that the Pennsylvania General Assembly extend Act 72, the Construction Workplace Misclassification Act, beyond the construction trades to cover other industries in the commonwealth.

2) The Joint Task Force recommends that the Pennsylvania General Assembly statutorily adopt the ABC test as a baseline standard for the commonwealth to clearly delineate the difference between "employee" and "independent contractor."

3) The Joint Task Force recommends that the Pennsylvania General Assembly expand the statewide clearance programs to "require" all state agencies to pull current licenses or not renew current licenses if a business is determined to have knowingly misclassified workers and has not paid the fines and fees associated with that violation or previous violations.

4) The Joint Task Force recommends that the Pennsylvania General Assembly require appropriate state agencies to share FEIN and employment information under proper confidential safeguards on all state agency business applications so that compliance crossmatches can be done efficiency. The purpose of this would be to ensure compliance and provide education and assistance to first violators so that they can reach compliance or, if there is evidence of a knowing violation, to initiate an investigation.

5) The Joint Task Force recommends that the Pennsylvania General Assembly enhance the penalties associated with worker misclassification violations under Act 72 by increasing the fines in tiers for first, second, and subsequent violations and by enhancing criminal penalties for knowing violations while maintaining summary offenses for negligent violations.

6) The Task Force recommends that the Pennsylvania General Assembly provide Labor & Industry with the following:
- resources to hire additional investigative and support staff, such as forensic accounting and computer support; and
- subpoena authority to acquire records of employers as part of investigations into misclassification

7) The Task Force recommends that the Pennsylvania General Assembly provide Labor & Industry with authority to issue administrative stop work orders against entities and/or individuals that have been found to have employed misclassified workers.

8) The Task Force recommends that the Pennsylvania General Assembly provide Labor & Industry with statutory authority to debar companies or individuals for knowing violations or for multiple violations of Act 72.

9) The Joint Task Force recommends that the Pennsylvania General Assembly statutorily authorize that liability shall be imposed by law on general contractors any time their subcontractors are found to have misclassified workers on a project only if the general contractor had clear evidence of a knowing misclassification violation.

10) The Joint Task Force recommends that the Pennsylvania General Assembly require labor brokers doing business in the commonwealth to be registered and bonded, including but not limited to reporting requirements for workers' compensation, unemployment compensation, and federal and state taxes, to safeguard workers from being misclassified as independent contractors.

11) The Joint Task Force recommends the creation of an interagency working group to meet quarterly to coordinate enforcement strategies involving state agencies, such as Labor & Industry and Revenue, along with the Attorney General's Office and County District Attorneys' Offices.

12) The Joint Task Force recommends that the Pennsylvania General Assembly allocate funds and expand posting requirements for a statewide effort of education and public outreach led by state agencies in conjunction with stakeholders to educate the public, workers, and business owners about the worker misclassification issue and the obligations under the law.

13) The Joint Task Force recommends that the Pennsylvania General Assembly authorize the Department of Revenue, the Bureau of Workers' Compensation, and the Bureau of Labor Law Compliance to share data, in addition to existing authority to share data with the Office of Unemployment Compensation Tax Services, for the purposes of investigating employee misclassification.

14) The Joint Task Force recommends for misclassification violations that the Pennsylvania General Assembly authorize the Department of Labor & Industry to recover investigative costs and attorneys' fees from violators, and authorize courts to assess investigative costs and attorneys' fees incurred by the Office of Attorney General and District Attorneys' Offices against criminal violators who are found guilty, or plead guilty or nolo contendere for knowing violations.

15) The Joint Task Force recommends that the Pennsylvania General Assembly authorize a private right of action for misclassified employees and impose a penalty to be paid directly to plaintiffs that successfully establish a claim of misclassification in addition to other rights to which they are entitled under the WPCL and modeled after N.J.S.A. § 34:1A-1.18.

APPENDIX

A. WORKPLAN

At its first meeting in January 2021, the Joint Task Force considered a proposed workplan which it then adopted by a unanimous vote at its February 2021 meeting. Formal adoption of this workplan satisfied the requirement in Section (e) of Act 85.

Joint Task Force on Misclassification of Employees Workplan (February 2021)	
March 2021	Identify relevant existing laws and begin to evaluate existing employee misclassification enforcement by commonwealth agencies
April 2021	Ensure commonwealth agencies are enforcing and assessing penalties for violations of employee misclassification laws in a timely manner
June 2021	Review monitoring and enforcement of misclassification laws
August 2021	Review current procedures and establish best practices for accepting and processing complaints within the commonwealth and across other states
October 2021	Identify the barriers preventing commonwealth agencies from sharing information about and coordinating employee misclassification identification and enforcement
November 2021	Develop preliminary recommendations for statutory changes if necessary
December 2021	Determine how much revenue the a) General Fund; b) Workers' Compensation Administrative Fund; c) and UC Trust Fund lose annually due to employee misclassification
January 2022	Preliminary report (due March 1 to General Assembly) drafted and circulated to Task Force
February 2022	Task Force members ratify preliminary report
March 2022	First report (preliminary) due to the General Assembly on March 1
April 2022	Prepare plan to work with businesses, labor organizations, and the community to increase public awareness of employee misclassification to reduce its prevalence with report
August 2022	Develop final recommendations for statutory changes if necessary, finalize format and content areas of final report
October 2022	Task Force members consider and ratify final report
December 2022	Final report due to the General Assembly

B. CALENDAR OF PRESENTERS AND PRESENTATIONS TO THE JOINT TASK FORCE

Joint Task Force on Misclassification of Employees 2021 Calendar	
Jan. 22, 2021	• Organizational meeting with opening remarks by Secretary of Labor & Industry Jennifer Berrier, Attorney General Josh Shapiro, and Secretary of Revenue Daniel Hassell
Feb. 26, 2021	• "PA Construction Workplace Misclassification Act (Act 72)" by Director Bryan Smolock, Bureau of Labor Law Compliance (BLLC); • "Office of Unemployment Compensation Tax Services (OUCTS)" by OUCTS Assistant Director Bill Piatak; and • "Bureau of Workers' Compensation (BWC)" by BWC Director Marianne Saylor
March 26, 2021	• "Misclassification Task Force" by Deputy Secretary Bryan Barbin, Department of Revenue • "Fair Labor Section" by Chief Deputy Attorney General Nancy Walker, Chief Deputy Attorney General Kirsten Heine, Deputy Attorney General Ryan Smith, and Deputy Attorney General Christopher Hallock, PA Office of the Attorney General
April 24, 2021	• "Construction Industry Fraud" by Mr. Joel Niecgorski and Mr. Steve Mazza, Pittsburgh Construction Misclassification Task Force
May 28, 2021	• "Fight Misclassification: New Jersey's Approach to Protecting Our Workers" by NJ Department of Labor Commissioner Robert Asaro-Angelo, Mr. Joseph Petrecca, Mr. David Biglin, and Ms. Mindy Gensler
June 25, 2021	• "Joint Task Force on Misclassification of Employees: The Legal Landscape" by Ms. Sarah Schalman-Bergen (Lichten & Liss-Riordan, P.C.), Mr. Seth Lyons (Community Legal Services), and Mr. Pete Winebrake (Winebrake & Santillo, L.L.C.), with worker witnesses
July 23, 2021	• "Briefing to Pennsylvania Joint Task Force on Misclassification" by Ms. Rebecca Smith, Philadelphia Legal Assistance • "The Impact of Misclassification on Pennsylvania Workers and Our Revenue" by Mr. Omeed Firouzi, Philadelphia Legal Assistance, with worker witnesses
Aug. 28, 2021	• "Rebuilding American Values" by Mr. Bob Wolper and Mr. Tyler Honschke with Mr. Matt Toomey from the International Union of Operating Engineers Local 542; Mr. Ed Lounsberry from Foundation for Fair Contracts; Mr. Fritz Beinke owner of FR Beinke Wrecking, Inc.; Mr. Tim Crowther from the International Union of Painters and Allied Trades

	District Council 21; Mr. Steve Simone Foundation for Fair Contracts; and Mr. Mike D'Alicandro owner of Twindows, Inc.
Sept. 24, 2021	• "A Brief Primer: The Separations Act in Pennsylvania" by Assistant Chief Counsel Peter Von Getzie, PA Department of Labor & Industry • "Pennsylvania Joint Task Force on Misclassification of Employees: Act 85 of 2020 and Task Force responsibilities" by Deputy Policy Director Tom Foley, PA Department of Labor & Industry
Oct. 22, 2021	• "The Use of Labor Brokers in Construction Industry to Evade Employment Tax Laws" by Mr. Matt Capece, Esq., International Carpenters Union • "Act 72 Investigations in Delaware County" by Delaware County District Attorney Jack Stollsteimer
Nov. 19, 2021	• No presentations. The Joint Task Force deliberated on proposed recommendations to the General Assembly
Dec. 17, 2021	• Unemployment Compensation Tax Services "Statute Overview and Recommendations" by OUCTS Director Bill Piatak • "Misclassification Task Force" by Deputy Secretary Bryan Barbin, Department of Revenue