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Senate of Pennsylvania

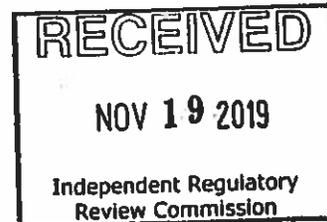
November 19, 2019

COMMITTEES

- LABOR & INDUSTRY
CHAIR
- INTERGOVERNMENTAL OPERATIONS
VICE CHAIR
- ENVIRONMENTAL RESOURCES
& ENERGY
- JUDICIARY
- RULES & EXECUTIVE
NOMINATIONS
- TRANSPORTATION

senatorbartolotta.com

Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101



Re: Disapproval of Final Rulemaking (DLI 12-106 and IRRC 3202)

Dear Commissioners:

The Senate Committee on Labor and Industry authorized me to advise, in accordance with Section 5.1(j.2) of the Regulatory Review Act, that the committee has disapproved the final-form regulation updating the executive, administrative, and professional exemptions from the minimum wage and overtime requirements of the Minimum Wage Act of 1968. The committee disapproved of the rule on November 18, 2019 by a vote of 7-4.

Despite the serious concerns expressed by the standing committees of the General Assembly, the Department of Labor and Industry ("DLI") made no attempt to address those concerns or negotiate with the standing committee members. Senator Kim Ward, then-Chair of the Senate Labor and Industry Committee, addressed several concerns in a letter to DLI on July 31, 2018. Senator Ward explained that, contrary to the stated DLI goal of achieving "a healthier workforce and more time for families to spend together," the proposed regulation could result in lower wages and less flexibility for individuals working in an executive, administrative, or professional capacity. Many employers would be forced to revert salaried employees to an hourly pay rate, requiring the employees to clock in and out and be unpaid for appointments and errands related to family responsibilities.

Senator Ward questioned DLI's claim that the regulation "will have a small impact on Pennsylvania's ability to compete and a potentially net positive impact." Not only is there no evidence that DLI reached this conclusion after conferring with chambers of commerce or economic development agencies, but also representatives of the business community have expressed strong opposition to the regulation precisely because of the disastrous consequences it would pose for the ability of Pennsylvania businesses to compete. Pennsylvania will remain competitive to the extent that we adhere to the nationally applicable salary threshold contained in the U.S. Department of Labor regulation effective on January 1, 2020. The DLI final-form

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regulation would increase the salary threshold well above the federal standard, increasingly harming Pennsylvania's competitiveness with each upward adjustment.

Section 2(a) of the Regulatory Review Act states, "To the greatest extent possible, this act is intended to encourage the resolution of objections to a regulation and the reaching of consensus among the commission, the standing committees, interested parties and the agency." DLI has ignored, instead of attempting to resolve, objections to this regulation. DLI made no effort to resolve the concerns expressed by Senator Ward, ignored the concerns of the business community about inconsistent standards of compliance, and ignored human services providers to vulnerable senior citizens, which providers already face a funding gap between Medicaid reimbursement and the cost of their services.

The Senate Labor and Industry Committee urges the Commission to consider its disapproval of the regulation, the significant and voluminous objections expressed by representatives of the business and nonprofit sectors, and the lack of consensus regarding this regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Camera Bartolotta". The signature is fluid and cursive, with a large initial "C".

Camera Bartolotta, Chair
Senate Labor and Industry Committee

cc: Hon. Gerard Oleksiak