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August 20, 2018

Mr. Bryan M. Smolock,
Director, Bureau of Labor Law Compliance
Department of Labor and Industry
651 Boas Street,
Harrisburg, PA 17121



RE: Comments on the Department of Labor and Industry's Proposed Rulemaking for 34 PA Code, Chapter 231 Re: Overtime Pay; Minimum Wage #12-106 (IRRC number 3202)

The Chamber supports the concept of fair compensation for all employees, offered in a free market environment with businesses not overly burdened by government regulations and legislation. To the extent any changes in compensation regulations are proposed, the Chamber supports those modifications that are methodically planned in a logical, predictable, and transparent manner and consider the potential advantages and disadvantages to both employees and employers.

In response to Governor Wolf's call to "modernize" Pennsylvania's overtime rules, the Pennsylvania Department of Labor and Industry (L&I) proposed increasing the salary exemption from overtime pay eligibility from \$23,660/year currently to \$47,892 by 2022.

This is similar to the final regulations the U.S. Department of Labor (DOL) issued in 2016 that were halted by a federal court before enactment. Those regulations would have significantly increased the salary requirements for EAP employees to remain exempt from overtime, from \$23,660/year to \$47,476.

The Chamber agrees with the Governor that all employees should be fairly compensated for the work they perform. However, the Chamber disagrees with this proposed regulation as in our opinion it would result in significant job losses and have severe negative impacts on businesses, in particular not-for-profit businesses.

The Chamber's view is that the proposed regulation would place an undue burden on business through increased payroll costs, increased costs associated with a new requirement to track out-of-office work hours, increased restrictions on employee flexibility, and other business-related consequences.

Both non-profit and for-profit entities that are already heavily regulated have told us that they cannot simply just raise prices to accommodate this proposed change; they may be forced to consider alternatives such as reducing investment in their business,

reducing the size of their workforce and cutting programs for the people they serve. During discussions with Chamber members, we learned that a small not-for-profit Chamber member has estimated that their expenses would increase approximately \$80,000 per year. Another larger organization estimated its increased cost to be \$175,000 due to the impact of not only paying increased overtime, but also adjusting salaries of those higher on the pay scale to maintain internal pay equity. This again places valuable jobs in jeopardy as employers are forced to accommodate this unfunded mandate.

These are real-world impacts that, in addition to the effects discussed, make Pennsylvania's business climate less competitive.

The Chamber supports an approach that sets a fair standard for employees, provides a manageable framework for business, and removes political influence going forward:

- Indexing future increases on an annual basis using the CPI-W index, the same index used to determine annual Social Security benefit increases.
 - If the CPI-W index were to be negative in any given year, there would be no increase in the exemption threshold in the following year.
 - Establish a cap of a three percent increase in any given year, calculated on a 20-year rolling average, instituted to capture fluctuations in a manner that works for business owners while protecting employees.
- Implementation of a tiered regional wage structure which specifies in a thoughtful manner different rates based on the economic circumstances of the area in question. We propose that consideration should be given to the use of something similar to an MSA model* currently in place at the federal level.

While these changes would increase business costs, it would be more manageable for businesses and fairer to employees over the long term by providing a set framework for threshold changes that are tied to economic conditions and outside of political influence.

The Chamber supports regulations that:

- Consider the economic impact on businesses and not-for-profit organizations, as well as on other sectors of the economy
- Provide adequate time for input
- Are issued with full transparency as to impact
- Assure fair compensation
- Give employers a reasonable amount of time to comply
- Recognize geographic differences in salary for similar positions

The Chamber opposes regulations that:

- Place undue financial burdens on businesses
- Reduce scheduling flexibility for employees
- Increase administrative costs with no net benefit

- Disproportionately affect small businesses, state and local governments, and not-for-profit organizations –especially those serving our most vulnerable populations

Businesses already carry a heavy regulatory burden. We believe that a rush to change regulations, along with regulatory orders, can interfere with the ability of businesses and not-for-profit organizations to operate successfully. Business closures or staff cutbacks have a detrimental effect on the community; therefore, we need a regulatory structure that is less burdensome, takes into account geographic differences, reflects what would be best for both employees and employers, and is implemented with sufficient time for which organizations must comply.

*The federal Bureau of Labor Statistics (BLS) conducts locality pay surveys in 47 separate geographic areas to determine appropriate compensation.

The Greater Lehigh Valley Chamber of Commerce's mission is to improve the economy and quality of life in the Lehigh Valley Metropolitan Area. With nearly 5,000 members who employ more than 200,000, the Chamber is the largest in Pennsylvania and New Jersey, and in the top seven nationwide. And our thirty-plus affiliated chambers, councils and committees are On Every Main Street with more than 1,500 community focused volunteers who actively contribute, at the grass roots, to develop and achieve their respective and collective goals.