



Testimony

Submitted on behalf of the  
Pennsylvania Chamber of Business and Industry

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**Public Hearing on Funding Requests and Long Term SIIF Funding**

Before the:  
**Pennsylvania House Labor and Industry Committee**

Presented by:

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Chairman Kauffman, Chairman Galloway and members of the House Labor and Industry Committee, my name is Alex Halper and I am Director of Government Affairs for the Pennsylvania Chamber of Business and Industry. The PA Chamber is the largest, broad-based business advocacy association in Pennsylvania. We represent employers, both for-profit and nonprofit, of all sizes, crossing all industry sectors throughout the Commonwealth. Thank you for the opportunity to testify today regarding unemployment compensation and funding for administration of the program, including through the Service Infrastructure and Improvement Fund.

The Service Infrastructure and Improvement Fund (SIIF) was established by Act 34 of 2013. This law authorized the Department of Labor and Industry (L&I) to divert hundreds of millions of dollars generated from employee contributions to update technology and temporarily supplement federal funding to administer the Commonwealth's unemployment compensation program. The employee tax used to finance SIIF was also temporary and among the measures recently "triggered on" to improve cash flow for the Unemployment Compensation Trust Fund, which has been insolvent since March 2009.

Achieving trust fund solvency and maintaining this important safety net for current and future claimants has been, and continues to be, a top priority for the PA Chamber and Pennsylvania employers, who pay some of the highest UC taxes in the country.

Though wary of diverting dollars away from the trust fund, and thereby delaying solvency, the PA Chamber did not oppose Act 34 or creation of SIIF: both employers and claimants were being negatively impacted by an outdated, inefficient UC administrative infrastructure that was simply unable to contend with heavy demand at that time. Technology upgrades proposed to be financed by SIIF promised to dramatically improve efficiency and save costs in the long-term.

The PA Chamber's acquiescing to divert dollars from the trust fund to SIIF was also premised on SIIF being temporary. This was not just an expectation or generally held understanding: SIIF was set up to be temporary, as it is financed by a funding source, the employee tax, which is itself temporary and is slated to "trigger off" once the trust fund is solvent.

Now, more than three years later, economic conditions have changed considerably. The current unemployment rate of 5 percent is down from 7.1 percent when Act 32 was signed into law. Moreover, USDOL data shows a fairly significant downward trajectory in claims activity and waning of the strain on the system that prompted Act 34. Comparing the most recent Pennsylvania USDOL data to the 2013 figures shows the number of initial UC claims from the previous twelve months has declined by over 32 percent (from around 1.2 million to under 940,000).

At the same time, several realities that existed in 2013 remain unchanged: the trust fund is still years from solvency; Pennsylvania employers on average pay some of the highest UC taxes in the country (5<sup>th</sup> highest in the country, according to USDOL); employers are still assessed an additional tax to pay down UC-related debt incurred during the Great Recession; and, it seems, L&I is not substantially closer to administering UC through a modern, efficient system.

We recognize the challenges L&I faces with outdated technology, a previous vendor that failed to deliver an updated system and federal funding that has indeed declined from its peak following the Great Recession (though it was always known this decline would occur as economic conditions improved). We continue to share L&I's desire for an updated, well-functioning system that effectively serves claimants and employers and we understand achieving this objective will cost money.

However, we are concerned with reauthorizing the SIIF and continuing to divert funding away from the trust fund absent plans to finalize modernization and ultimately phase out L&I dependence on SIIF – particularly as its funding source is slated to be phased out, as previously discussed. Just as importantly, we urge lawmakers to consider other means of improving program efficiency beyond

infrastructure upgrades and to prevent continued detrimental impact on the trust fund by offsetting SIIF costs.

Previous hearings held by this committee may serve as a guide to creating a balanced legislative proposal:

The committee held a hearing in March 2017 to explore these issues with the Secretary of the Department of Labor and Industry and some of the discussion focused on why the unemployment compensation system seems to feature so many disputes and why individual disputes seem to take so long to be resolved. One exchange delved even deeper into the role of unemployment compensation referees and others involved in the adjudication process and the extent to which part of the problem stems from the amount of discretion afforded to these individuals in deciding claims.

A couple months later on May 9<sup>th</sup>, the Committee held a hearing on House Bill 1014, legislation that would help address the concerns raised at the March hearing by providing stronger legislative guidance to resolving disputes; thereby removing some uncertainty and facilitating more efficient administration.

Unemployment compensation is a program which, according to the Pennsylvania Department of Labor & Industry's website, is: "...money paid to people who have lost a job through no fault of their own. It is temporary income meant to help make ends meet while people look for a job."

The PA Chamber supports UC but also recognizes that it is a program with a particular purpose and specific intended beneficiaries. It was clearly not intended to make benefits available to anyone who was currently not working: claimants are required to meet specific eligibility standards related to attachment to the workforce, wages earned, circumstances of the separation, readiness and ability to work and continual efforts to find a new job.

H.B. 1014 focuses on one of these eligibility requirements: circumstances of the separation. Current law sets forth policy dictating when benefits are not provided to individuals who get fired or quit their job. However, terms used within these policies are vague, which has created an unpredictable environment in which the rules are unevenly enforced by those tasked with resolving disputes and too often lead to individuals being awarded benefits when the intent of the law would suggest they should probably not be eligible.

House Bill 1014 removes some vagueness in the law by 1) outlining the circumstances under which a firing triggers ineligibility for benefits and 2) clarifying that an individual whose separation from employment was due to “voluntary leaving work without cause of necessitous and compelling nature” is only eligible for benefits if he or she quits for reasons attributable to the job or workplace. By refocusing the law on those for whom the program was created, this bill will improve efficiency and save costs.

The bill will also help improve administration of the UC system and service centers. Providing specific statutory guidance and clarification to help dictate decisions will remove much unpredictability in the system and allow for a quicker and more uniform approach to dispute resolution. L&I personnel cannot be blamed for the current lengthy deliberation process that often occurs when disputes are considered: the lack of guidance means each claim must be analyzed and judged individually with decisions ultimately based on the individual preference of unelected officials as opposed to deliberate decisions from policymakers. Precedent from previous cases may be factored into a decision but often is not.

Not only does the lack of specificity in the law create an inefficient system, it encourages individuals who should not be eligible or have appropriately been denied

benefits to apply anyway or challenge previous denials, respectively, since the law allows for more discretion throughout the adjudication process.

While we support the Committee's attention to significant matters including the future of SIIF and bills like H.B. 1014, it is important to consider Pennsylvania's UC system at the macro level and in comparison to other states with whom we compete.

Pennsylvania's trust fund falls well below the U.S. Department of Labor's recommended solvency level; and while significant progress has been made in recent years, – primarily through Act 60 of 2012 – Pennsylvania's unemployment compensation system remains in a tenuous financial state. As previously stated, Pennsylvania employers pay some of the highest unemployment compensation taxes in the country (5<sup>th</sup> highest average tax on total wages in the country<sup>1</sup>) and that does not account for an additional tax paid to service debt incurred during the Great Recession. In fact, the Tax Foundation's *2017 State Business Tax Climate Index* ranked

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<sup>1</sup> Using *total wages* as opposed to *taxable wages* or *taxable wage bases* as the relevant measure allows for an apples-to-apples comparison because states utilize different taxable wage bases. For example, Pennsylvania's taxable wage base is relatively low (currently \$9,750, though scheduled to increase next year) but the average rate paid on those wages is the highest in the country. When the numbers are crunched, the average rate is 10<sup>th</sup> highest in the country. The use of these various measures has long been a point of contention as some stakeholders consistently mislead lawmakers and the public by citing the relatively low taxable wage base and specifically omitting any reference to Pennsylvania's high rate to attempt to falsely demonstrate that our UC taxes are relatively low.

Pennsylvania as the 45<sup>th</sup> worst state in the country for employers in terms of Unemployment Insurance taxes.

On the other hand, USDOL data shows high-level outlays from the trust fund for unemployment benefits. In addition to typically ranking among the top states in total benefits paid, current data shows Pennsylvania also has the 10<sup>th</sup> highest average weekly benefit amount in the country, an average duration for receiving benefits that is above the national average and one of the highest rates of unemployed individuals receiving benefits.

Pennsylvania clearly has one of the most generous unemployment compensation programs in the country – both in terms of the amount of benefits received and who can qualify. While Pennsylvania employers pay for this program, it is certainly the General Assembly's prerogative to maintain Pennsylvania's status as a relatively generous benefit state, as well as to supplement federal funding for administration. We simply urge lawmakers to carefully consider measures, such as H.B. 1014, to help control costs while ensuring the program is maintained for those for whom it was intended.

Again, thank you for the opportunity to testify. I am happy to answer any questions.