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TO: All House Members
FROM: Representative John C. Bear
DATE: May 4, 2011
SUBJECT: Proposed Legislation – Job Classification Uniformity Act

Currently there exists a predominantly subjective system within the Department of Labor and Industry for classifying and defining jobs that are subject to the Pennsylvania Prevailing Wage Act. There is broad discretion to use multiple sources for the job definitions. Typically, the legal terms "custom and usage" are used to justify widely varied definitions that ultimately lead to confusion and a sense of not knowing the rules of the "game."

The definitions are not uniform, are vague, and lack a mechanism for changes and interpretations in a fair, open and honest manner. Right now, there are multiple sets of criteria defining the same jobs differently in different parts of the state. Uniform job classifications are important because contractors doing business with the state must rely on them for making sure they are properly paying their workers according to the jobs they are performing. Presently, violations of these broad, vague, and varied definitions could lead to a company being fined or even banned from doing work in the Commonwealth.

To assure a fair and transparent system for all contractors doing work with the Commonwealth, the legislation I am proposing will require the Department of Labor & Industry to adopt a uniform, clear, and published set of job classifications and definitions, including a set of guidelines for any future necessary changes.

The United States Bureau of Labor Statistics publishes an "Occupational Outlook Handbook" listing construction trades and related workers that includes accepted definitions of each. This publication could serve as an unbiased model.

During a recent violation hearing, the examiner noted, "the Bureau has not disseminated, maintained or published any definitive list or itemization of what tasks do or do not qualify as laborers' tasks." The examiner further stated, "there is not enough guidance to enable a contractor to know how to

classify tasks, as made clear by the testimony of the Bureau's Investigators, auditors and expert witness who could not agree on the proper classification of tasks."

The bill I am proposing would establish one clear definition for each job classification that would be applicable to ALL contractors and workers doing construction work in the Commonwealth under the Prevailing Wage Act thus eliminating confusion and greatly reducing improper payments to workers for the jobs they perform.

If you are interested in co-sponsoring this legislation, please contact Debra Brehm at 717-787-1776 or dbrehm@pahousegop.com.