

THE PENNSYLVANIA STATE ASSOCIATION OF BOROUGHES

Occupational Safety of Public Employees

Senate Intergovernmental Operations Committee

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Good morning, Chairman Coleman, Chair Tartaglione, and members of the Senate Intergovernmental Operations Committee. My name is Ron Grutza and I serve as the Assistant Director of the Pennsylvania State Association of Boroughs (PSAB). PSAB is a statewide, non-partisan, non-profit organization dedicated to serving 955 borough governments. Since 1911, PSAB has represented the interests of boroughs and helped to shape the laws that laid their foundation. The Association improves and assists local governments through legislative advocacy, research, education and other services. With more than 2.4 million Pennsylvanians residing in borough communities, our members strive to deliver quality leadership and service to citizens across the Commonwealth.

PSAB is pleased to provide this testimony to highlight our concerns with House Bill 299, which would establish Occupational Safety & Health Act (OSHA) standards for public employees in Pennsylvania. While we share similar goals of addressing public employee safety as the proponents of this legislation, we strongly disagree with the premise that public employees are less safe than their private sector counterparts. PSAB believes Pennsylvania public employers already provide safe working conditions with proper oversight and safety equipment. As public employers, our number one priority is always to protect our workforce and make sure they will return home safely to their families.

Pennsylvania's public-sector employees already work under many different laws and regulations which help to protect them and guide their employers on how best to provide a safe working environment. Some of these laws include:

- Worker and Community Right-to-Know Act (Act 159 of 1984)
- The General Safety Law (Act 174 of 1932)
- Commercial Driver's License (CDL) regulations
- Federal Highway Administration (FHWA)/PennDOT Traffic Control Guidelines
- Underground Utility Line Protection Act
- Pennsylvania Whistleblower Act
- Public Employees Relations Act (Collective Bargaining)

In addition to these laws, there is a financial incentive for a safe workplace with safety procedures to keep workers compensation insurance premiums low. Many public employers have established workplace safety committees which are certified by the Department of Labor & Industry. Having a certified workplace safety committee will reduce premiums, but more importantly, provide important workplace safety policies and procedures. Additionally, public employers often work with their insurance providers to provide risk management reviews. For example, Swissvale Borough in Allegheny County has worked with their insurance provider for three years to overhaul their safety programs, hiring practices, and employee training. Because of their focus on worker safety, Swissvale's experience modifier and workers compensation

premiums are dropping dramatically. The borough has reduced their annual premium by over \$100,000 per year through a very strong focus on worker safety.

Public employers not only follow the various laws governing worker safety, but also institute smart safety policies to protect employees. For example, Macungie Borough in Lehigh County has adopted an extensive employee safety manual, which was adopted back in 2017. It provides procedures and protocols for employees to follow when performing their duties. Additionally, the safety policy requires incident reports when accidents occur.

DEPARTMENT OF LABOR STATISTICS

We have yet to see empirical data which proves that our public employees are less safe without OSHA. In fact, if you research statistics from the United States Department of Labor, Bureau of Labor Statistics, State Occupational Injuries, Illnesses, and Fatalities data, you will find that Pennsylvania has comparable public-sector fatalities similar to states which currently have public sector OSHA State Plans.

For example, in 2021 Pennsylvania reported a total of 165 fatal occupational injuries. Of that number, only 7 are attributable to public employees. Compare Pennsylvania's fatalities to Illinois, which already has a state-run OSHA program for public employees and is comparable to Pennsylvania in size and the number of municipalities. In 2021, Illinois reported 176 fatal occupational injuries, 22 of which were public sector employees.¹

As the data indicates, compliance with OSHA standards does not equate to significantly safer employees. It is impossible to craft a law to stop what are essentially infrequent occurrences. Instead of creating a new, expensive bureaucratic scheme, as found in House Bill 299, we believe workers should continue to be trained in the kinds of hazards they encounter on the job, to recognize them, and to take steps to prevent them. If we continue to do that, we will be giving our workers the tools they need to prevent accidents and fatalities on the job.

LOCAL COSTS

House Bill 299 would create a financial and administrative burden on public employers. Whether the administrative documents required or the redundant standards, we believe these costly mandates will not result in a significantly safer workforce. PSAB opposes this type of unfunded mandate which will not be effective.

Additionally, requiring public employers to comply with OSHA standards, which were originally formed for private companies, simply does not make sense. In the manufacturing or chemical industry, it would make sense to follow these standards; however, most of our employees do not face these same risks. Again, placing costly unfunded mandates on our local governments will not yield any measurable benefits to employees beyond what they already receive.

¹ United States Department of Labor, Bureau of Labor Statistics, State Occupational Injuries, Illnesses, and Fatalities Data 2021

STATE FUNDING

House Bill 299 would not only cost public employers an unnecessary amount of resources, but also place additional fiscal burdens on the Commonwealth of Pennsylvania. Last year, the Department of Labor & Industry announced the completion of a feasibility study to implement a state-run OSHA plan for public employers. The feasibility study estimated the costs of adopting OSHA standards for **commonwealth employees under the governor’s jurisdiction** to be \$54.8 million at baseline and \$14.4 million for year one. I assume that would only include the administration to run the program and would not include the necessary equipment upgrades to comply with the OSHA standards. We can only guess since we have not been able to obtain the report.

Proponents of the bill point to the federal government providing up to 50 percent of the administrative cost in matching grants. This fact can be misleading as OSHA provides up to 50 percent of the baseline initial budget for the state plan. As the state’s budget increases due to cost-of-living increases and mandated personnel, the states must pick up 100% of these costs. The end result is states must “overmatch” their portion to keep up with providing effective enforcement of the OSHA standards. In 2021, the Occupational Safety and Health State Plan Association reported the collective overmatch of state plans at \$131.4 million.²

The federal government’s funding of state plans has not kept up with inflation. The “real dollars” available to states has significantly decreased when considering inflation.³ In 2005, state plans were funded at \$91 million.⁴ To fund state plans at the same level in 2020, a budget of \$129 million would be needed. (Currently funded at \$108 million.)⁵

A 2013 Government Accountability Office (GAO) report identified many challenges that state-run OSHA plans face. These challenges include finding staff to fill vacant inspector positions, retaining qualified inspectors, and obtaining necessary training for their inspectors. Additionally, they stated, “The budget shortfalls that many of the states face and their human resource policies can contribute to these staffing challenges, which have also limited some states’ ability to meet their inspection goals.”⁶ While OSHA maintains the state programs are effective, the cover letter from the GAO opens with the following, ***“States are facing severe budget constraints that have jeopardized their ability to effectively administer state-run occupational safety and health programs.”***⁷ PSAB respectfully requests the members of this committee to consider the fiscal

² *Impact and Funding of State Occupational Safety and Health Programs*, Occupational Safety and Health State Plan Association, 2021 Special Report

³ *Impact and Funding of State Occupational Safety and Health Programs*, Occupational Safety and Health State Plan Association, 2021 Special Report

⁴ *Impact and Funding of State Occupational Safety and Health Programs*, Occupational Safety and Health State Plan Association, 2021 Special Report

⁵ *Impact and Funding of State Occupational Safety and Health Programs*, Occupational Safety and Health State Plan Association, 2021 Special Report

⁶ *Workplace Safety and Health, OSHA Can Better Respond to State-Run Programs Facing Challenges*, Government Accountability Office, April 2013

⁷ *Workplace Safety and Health, OSHA Can Better Respond to State-Run Programs Facing Challenges*, Government Accountability Office, April 2013

and personnel challenges faced by other states before considering this significant fiscal commitment.

CONCLUSION

Pennsylvania public employers' system of regulating employee safety is working. Why should Pennsylvania take on this expensive mandate which seems to be a considerable fiscal burden for the other states which currently administer state plans? State and local governments in Pennsylvania should instead continue with the system that has a proven record of serving our public employees without the fiscal burden of creating another bureaucracy. PSAB urges the committee members to oppose House Bill 299.

Thank you for the opportunity to share our concerns with the committee on this legislation.

If you have any questions about our testimony, please feel free to contact me.