



Testimony

Senate Intergovernmental Operations Committee

HB 299 – Public Sector OSHA

September 19, 2023

Office of Administration

Neil R. Weaver, Secretary

Chairman Coleman, Chairwoman Tartaglione, and Members of the Senate Intergovernmental Operations Committee, I am Neil R. Weaver, Secretary of the Office of Administration (OA). Thank you for the opportunity to submit written testimony regarding HB 299.

HB 299 would create the "Public Employees Occupational Safety and Health Act" to establish procedures for public employers and employees to address workplace safety issues and complaints. The legislation is intended to require the Commonwealth, its political subdivisions, and other public and quasi-public entities not already covered by the federal Occupational Safety and Health Act (OSHA), as employers, to comply fully with OSHA and such other health and safety standards as may be issued. This legislation largely mirrors OSHA and applies to the Commonwealth, its political subdivisions, mass transit systems, school districts and any nonprofit organization or institution not presently subjected to coverage under OSHA. The legislation is intended to extend the same protections to public sector workers and impose the same requirements on public sector employers, as those already being provided to and imposed on private sector employees and employers. Unlike OSHA, the Pennsylvania Department of Labor and Industry (L&I) would enforce these standards in public workplaces and would be authorized to issue additional standards as needed and grant variances upon specific request.

First and foremost, know that this Administration is committed to the safety of our employees in the workplace. To reduce hazards and improve working conditions, over the last 15 years the Commonwealth has implemented several safety initiatives. This has resulted in a significant reduction in reported workplace injuries and injury-related costs. Specifically, the Commonwealth's safety program has resulted in 1,781 fewer workers' compensation claims from fiscal year 14/15 to fiscal year 21/22, representing a 33.6% reduction in the total workers' compensation claims and a 35.7% reduction in the indemnity claim rate. As a result, workers' compensation costs were reduced by 12.6% (\$15,734,327.00) over the same time period. We also attribute this success to the additional education and training we have provided to our employees and supervisors which has helped to shift the culture so that safety is part of everything we do. This ongoing commitment by the Commonwealth to improve safety for its workforce has proven successful in achieving a similar outcome to that intended by an OSHA mandate.

The Commonwealth is subject to the Pennsylvania Workers' Compensation Act and pertinent regulations for self-insured employers. Self-insured employers are employers that are exempt from insuring, in whole or in part, their liabilities for compensation and maintain direct responsibility for the payment of this liability. These regulations require that all self-insured employers have an accident and illness prevention program (commonly referred to as AIPP), which identifies the components that each agency must have in their safety programs. These are baseline safety items that all programs must include. The elements of the program include general safety items that apply to all state workers, while the type of accident prevention services provided are tailored to the hazards of each state

agency. L&I's Bureau of Workers' Compensation performs audits to determine the adequacy of the Commonwealth agencies' AIPPs.

With respect to HB 299, the Administration supports the bill as long as critical funding is provided for implementation by newly-covered agencies. L&I also would need additional funding to implement its duties and responsibilities as the enforcement agency under HB 299. Our analysis is that the upfront cost of both implementing and enforcing OSHA standards could be significant and there will be re-occurring yearly costs to remain OSHA compliant. The Commonwealth estimates that it would initially cost approximately \$140 million to implement the bill. After year one, it is estimated that it would cost \$20 to \$25 million per year (reoccurring) to implement the bill. Additionally, and depending on the ultimate enforcement model, we believe that L&I would have substantial up front and annual costs to administer and enforce the requirements under HB 299. Therefore, to impose OSHA standards on Commonwealth agencies means there is a need for significant additional upfront and ongoing funding.

The specific areas in which costs would be incurred by covered agencies to meet minimum OSHA standards include, but are not limited to, the following areas:

Safety Specific Training

The Commonwealth estimates 40,000 of its employees will require some degree of additional training that is specifically required by OSHA, with the amount of training required for each employee varying by job responsibilities/services provided.

The Commonwealth currently provides the safety training outlined below, all of which would be required under OSHA, to Commonwealth employees to help make the workplace safer. If OSHA standards would be implemented, the Commonwealth would be required to provide training on a more frequent basis and to a larger audience.

Examples of training include:

- Maintenance Training
- Ladders training
- Scaffolding competent person training
- Scaffolding awareness training
- Fall arrest equipment training
- Respiratory protection training
- Confined space entry attendant, supervisor and entrant training
- Powered industrial truck training
- Combustible dust cleaning training
- Electrical safety competency reviews and training
- Trenching/excavation training
- Lockout/tagout affected, authorized and other employee training
- Excavation competent person training

- Fall protection competent person training
- Hazardous Waste Operations and Emergency Response (HAZWOPER) training
- Workers' Compensation record keeping training

Safety Systems and Equipment to be Purchased

The following list includes systems currently provided by the Commonwealth as well as some new systems that would need to be purchased and maintained to ensure compliance with OSHA regulations. Existing systems may need to be updated to meet OSHA standards or additional purchases to meet requirements. The costs of these systems range from nominal to potentially more than \$25,000 each.

- Fall arrest systems
- Emergency showers and eyewash stations
- Tie off points on buildings with professionally engineered inspections
- Dust control systems for combustible dust and respirable crystalline silica
- Ventilation systems to control chemical/welding fumes
- Equipment specific procedures (LOTO)
- Hazard assessment for electrical hazards (NFPA 70E)
- Trench boxes/shoring and trenching equipment
- Handrails
- Dock systems
- Scaffolding
- Confined space rescue equipment/SCBA
- Communication methods/radio
- Gas meters for confined space entry
- Powered industrial trucks and heavy equipment (new procurement as well as retrofitting equipment)
- Machine guards
- Locks and tags for control of hazardous energy
- Soil classification
- Portable GFCI
- Lab safety/ventilation
- Boats

Personal Protective Equipment (PPE)

The Commonwealth currently provides PPE to Commonwealth workers. However, in order to be OSHA compliant, more PPE may be needed as a result of hazard assessments. Further, it should be noted that employees may also face additional out-of-pocket costs to purchase items for their own use, like steel-toe shoes. Some examples of PPE required by OSHA are listed below:

- Arc flash clothing
- Respirators
- Hearing protection
- Fall protection

- Safety glasses
- Regular replacement of damaged PPE
- Hearing aids

Health Surveillance

The Commonwealth does currently conduct some health assessments that would be required under OSHA, such as hearing testing, medical evaluations, vaccination programs, and lead/zinc/hex chrome medical evaluations. If OSHA standards were implemented more health assessments would be required in terms of frequency and the number of employees evaluated.

Employees that have certain exposures need to be tested regularly. For example, if OSHA standards were implemented, every PennDOT employee who works around heavy machinery may need to have their hearing tested.

Industrial Hygiene Testing

To determine which types of PPE are needed to protect employees and which medical evaluations are needed, many agencies will require exposure testing. Each time a new piece of equipment is purchased, testing likely will be required.

- Chemical/contaminate testing/monitoring
- Respirator fit testing
- Fume hood testing
- Noise exposure
- Mold/air quality

These are examples of where there will be costs to implement HB 299 for agencies under the Governor's Jurisdiction. It is reasonable to assume that other public sector employers would incur similar costs were HB 299 to become law.

In conclusion, I want to assure this Committee that -- with or without the passage of HB 299 -- OA and all agencies under the Governor's jurisdiction are highly committed to ensuring safe and healthy workplaces and work environments for all our employees. As mentioned earlier, through our ongoing commitment to employee safety, we continue to adopt industry best practices, completing hazard assessments to identify gaps, and filling those gaps with resources to address the above-listed areas. In fact, continual improvements are often achieved through the normal replacement of end-of-life cycle equipment, with new equipment specifications developed to include the necessary safeguards and engineering controls required to meet OSHA compliance.

Regardless of whether SB 299 passes, the Commonwealth will continue to evaluate its safety program and implement new safety training, systems, and equipment to continue to make the Commonwealth workplace safe for its employees. As indicated earlier in my testimony, the Commonwealth's safety program has proven effective

at reducing injuries, claims, and costs without an obligation to comply with OSHA. The estimated costs of complying with and enforcing OSHA standards for public sector employers are significant and the current approach to implementing safety allows agencies to implement as they can when funding is available while still seeing a significant reduction in injuries, claims, and costs.

Again, Chairman Coleman, Chairwoman Tartaglione, and Members of the Senate Intergovernmental Operations Committee, thank you for the opportunity to submit written testimony regarding HB 299.