



Pittsburgh Regional Transit

September 18, 2023

The Honorable Chairman Jarrett Coleman  
Senate Intergovernmental Operations Committee  
459 Main Capitol  
Senate Box 203016  
Harrisburg, PA 17120-3002

The Honorable Chairwoman Christine Tartaglione  
Senate Intergovernmental Operations Committee  
458 Main Capitol  
Senate Box 203002  
Harrisburg, PA 17120-3002

Dear Chairman Coleman and Chairwoman Tartaglione,

Legislation has been introduced in the current session that would provide for workplace health and safety standards for public employees including providing for powers and duties of the Secretary of Labor and Industry, establishing the Pennsylvania Occupational Safety and Health Review Board, providing for workplace inspections and imposing penalties for workplace health and safety standard violations. Similar legislation has been introduced in prior sessions at which time Pittsburgh Regional Transit shared concerns related to the bill's proposed applicability to public transit agencies. We understand that an effort to move the current legislation forward has resurfaced this session as House Bill 299 (and there is a similar/companion Senate Bill 93) and wanted to share with you and other Senate Intergovernmental Operations Committee members our concerns with the bill currently proposing to include public transit agencies and efforts of Pittsburgh Regional Transit's comprehensive and rigorous safety program that could be disrupted if HB 299 passes in its current form.

Pittsburgh Regional Transit is the second largest transit agency in the Commonwealth and normally (prior to COVID-19) carries around 230,000 riders each day on buses via municipal streets and dedicated busways, on light rail and even on an inclined plane. We pride ourselves on our commitment to the safety and security of employees and passengers, which is a cooperative effort with our labor unions, and welcome effective oversight. After thoroughly reviewing the legislation upon the introduction of this bill in prior sessions and as this conversation has restarted, however, we believe that the pathway outlined in HB 299 is unduly burdensome without adding to the effective programs now in place at Pittsburgh Regional Transit and similarly situated Pennsylvania public transit agencies. Further, the legislation places all the responsibility on the agency/employer and fails to provide any requirement for employees to comply with safety rules as defined in the OSHA regulations and for agencies to effectively enforce those rules without labor union interference or disruption when employees fail to do so.

Before this bill advances further, we thought it would be helpful and vital for us to advise you and other committee members on the standards transit agencies the size and with the modes of transportation that Pittsburgh Regional Transit provides must meet. We regularly employ practices and procedures that meet or exceed the legislation's intent and are specifically tailored to public transit operations.

As a transportation entity that receives federal and state transit funds and operates service on fixed guideways, Pittsburgh Regional Transit must meet PennDOT and U.S. Department of Transportation safety standards. For example:

1. PennDOT, under certification from the U.S. Department of Transportation, operates the State Safety Oversight program (<https://www.penndot.pa.gov/Doing-Business/Transit/Pages/state-safety-oversight.aspx>) and is a national leader in that program. Pittsburgh Regional Transit's systems for rail and fixed guideways meet those requirements and are subject to regular audits and reviews. PennDOT representatives are stationed in our area to monitor compliance. PennDOT's State Safety Oversight Agency (SSOA and formerly known as the Rail Transit Safety Review Program) provides for accident, incident and hazard analysis, safety and security planning audits, and corrective action plans. In other words, the SSOA is OSHA for public transit agencies like Pittsburgh Regional Transit that operate service on fixed guideways. The SSOA's Annual Report is available at the following website link: <https://www.penndot.pa.gov/Doing-Business/Transit/Documents/2022%20State%20Safety%20Oversight%20Annual%20Report%207.10.23.pdf>.
2. PennDOT has issued an interim order for hours of service for bus operators, which limits how many hours bus operators can work and enforces fatigue awareness training for all operators and relevant management personnel. In addition, PRT Management negotiated a labor agreement with Amalgamated Transit Union Local No. 85 in 2020 that requires PRT's Rail Transit Operators to comply with the same hours of service rules as the bus rules issued by PennDOT. This also includes recurring fatigue awareness training.
3. Following passage of the federal Moving Transit Ahead in the 21<sup>st</sup> Century bill in 2012, which greatly expanded the safety powers and jurisdiction of the Federal Transit Administration (and by extension, PennDOT) of public transit agency safety programs, the FTA adopted a series of rules that required transit agencies to transition their current System Safety Program Plans to Public Transportation Agency Safety Plans, or PTASPs, grounded in the four pillars of a Safety Management System - Safety Policy; Risk Management; Safety Assurance; and Safety Promotion. One of the key areas of SMS is enhanced emphasis on employee safety reporting and we've expanded in that area by use of telephone and email reporting systems, both of which can be anonymously used by employees. SMS strongly encourages both incident and hazard reporting, as well as a non-punitive policy requirement to protect those employees who are reporting issues. Pittsburgh Regional Transit adopted our first PTASP in 2020 and our Board recently approved its most recent update in 2023 (following PennDOT and labor union review and approval, as required by recent federal law changed under the Bipartisan Infrastructure Law, which has further expanded safety regulations governing public transit agencies and the safety oversight powers of both the Federal Transit Administration (FTA) and the SSOA – <https://www.transit.dot.gov/safety/public-transportation-agency-safety-program/dear-colleague-letter-bipartisan-infrastructure>) to comply with rigorous PennDOT and FTA standards. Furthermore, a federal whistleblower law, the National Transit Systems Security Act of 2007, protects transit employees from discrimination or retaliation for reporting safety violations.

4. Pittsburgh Regional Transit has contracted with a professional safety consultant for on-call work to further bolster its existing internal System Safety personnel and ability to broadly roll out SMS, which to date has included annual safety and security plan updates; tabletop exercises simulating both physical and cyber security incidents for disaster responses preparedness; and development and roll-out of SMS training programs for both operating and non-operating Pittsburgh Regional Transit employees; currently, an effort is underway (which is part of Pittsburgh Regional Transit's Agency Strategic Plan) to complete and implement an agency-wide safety dashboard that will track and report out on safety incidents and events and further assist Pittsburgh Regional Transit in proactively identifying and working in collaboration with our labor unions and employees to mitigate potential safety hazards.

In addition to federal and state safety oversight, Pittsburgh Regional Transit fosters a culture of safety **every** day. Its dedication to this culture is present in the series of committees that have been established, maintained and meet regularly and several include labor union representative participation:

- **Rail System Safety Committee** (light rail transit operations and maintenance; meets monthly)
- **Bus Safety Committees** (committees at EACH bus division; each committee meets monthly)
- **Operations Safety & Security Review Committee (OSSRC)** (upper-level management and union safety committee; meets monthly to discuss issues that do or may have system-wide implications with respect to hazards, incidents, policies, and procedures; per changes under the Bi-Partisan Infrastructure Law, the Committee is now composed of an even number of management and labor union representatives and has added to its duties review and approval of annual safety plan updates)
- **Safety Event Review Team (SERT)** (reviews trends in accidents & identifies means to improve safety and also reviews and identifies means to address potential hazards and close calls; meets monthly)
- **Derailment Committee** (investigates all light rail transit derailments; meets as needed)
- **Procedures and Rules Committee** (promulgates changes to rail transit rules and operating procedures; meets as needed but at least every three years to review and update rules)
- **Bus SOP Committee** (promulgates new and changes to existing bus operations procedures; meets as needed)

All of the committees noted above have direct input and participation of union members. Clearly, Pittsburgh Regional Transit's maintaining an open door for all safety concerns or considerations is a significant understatement. On a regular basis, Pittsburgh Regional Transit employees present ideas to all levels of management to enhance the safety of their colleagues and the passengers they carry.

Beyond Pittsburgh Regional Transit's commitment in the safety arena, PRT has long held and maintained a self-insured Worker's Compensation policy. Under the reporting requirements of that policy and as part of the requirements to maintain its self-insured status, the agency must provide extensive information on an annual basis to the Pennsylvania Department of Labor and Industry's Bureau of Worker's Compensation including:

- Financial documents from a Nationally recognized statistical rating organization (Moody's) providing evidence of our long-term financial rating.
- Yearly Audit reports showing PAAC's complete financial records.
- PA Bureau of Workers Compensation form LIBC-810, showing complete outstanding medical and indemnity reserves.

- 15 year loss run table, LIBC – 366 showing all losses over the last 15 years.
- Evidence of Workers Compensation Excess insurance showing PAAC's retention and policy limit amounts.
- Evidence of a Workers Compensation Dedicated Assets Fund Account.
- All administrative and legal defense costs incurred since the previous application.

With respect to the Bureau of Labor Statistics information, for the past several years, the national industry average for the public transportation Incident Rates is approximately 4.6, meaning for every 100 workers who work on average 200,000 hours per year total (or each employee 2,000 hours), 4.6 will have an injury that requires more than onsite first aid to treat. Pittsburgh Regional Transit has finished the last five fiscal years for which Bureau of Labor Statistics information is currently available at or below the industry average for incident rate, with the fiscal year 2021 incident rate at 4.16. Further, Pittsburgh Regional Transit on average, has improved markedly over the past decade.

**To be clear, safety is not about costs or budgets, period.** However, as in any business, loss prevention can be about preserving assets for product improvement and delivery. It should be no different in a public enterprise, and it is not at Pittsburgh Regional Transit. With a significant and critical portion of the agency's budget deriving from state investment, Pittsburgh Regional Transit is obligated to be good stewards of taxpayer dollars because self-insurance means that the cost of those incidents comes directly from Pittsburgh Regional Transit's pocket rather than an insurance company policy. Additionally, the agency is under the oversight of the Pennsylvania Department of Labor & Industry's Bureau of Worker's Compensation to maintain that self-insurance program. As a result, the Bureau receives routine reports as well as monitors the incidents, the severity of those incidents, and any resulting payout for those incidents.

Finally, while the COVID-19 pandemic was clearly an unprecedented event with adverse impacts on our nation, Commonwealth and region, it also demonstrated Pittsburgh Regional Transit's safety programs and initiatives are well positioned to protect our employees and patrons. In February, 2020, and due to monitoring by our System Safety personnel as it became apparent the virus was spreading, Pittsburgh Regional Transit proactively formed a cross-functional COVID-19 Monitoring and Response Working Group to implement and manage the agency's pandemic response, which included employee and patron communications; updates to our Agency Pandemic Plan; and ensuring our supply chain and inventory of critical personal protective equipment was as strong as possible with the supply chain challenges we knew the virus would create; and being able to quickly respond and adapt the agency's operations and safety protocols to respond to public health authority orders and guidance as more was learned about COVID-19 and how to effectively protect our employees and customers. These efforts also included weekly COVID-19 status calls and review of critical protocols and plans with our primary labor union, which included a series of temporary agreements cooperatively negotiated between the parties.

Despite the challenges created by the virus and employing a workforce of over 2,600 employees largely on the front lines with the public, Pittsburgh Regional Transit maintained its essential public transit operations throughout the pandemic and has not had a reported COVID-19 death, hospitalization or serious illness for any of its employees since January 2022, which Pittsburgh Regional Transit believes is evidence that its COVID-19 response effort was proactive, collaborative with our labor unions and effective.

Quite simply and although well intentioned, HB 299 does not enhance the policies and procedures the Commonwealth and public transit agencies such as Pittsburgh Regional Transit currently employ and would be disruptive and in some cases in direct conflict with the already transit specific federal and state safety oversight laws, rules and programs in place. When an agency fosters a culture of safety, but also demands compliance and establishes a mechanism for true participation, the pervasiveness of tragedies that precipitated this legislation diminishes. A commitment to safety in the workplace does not begin with regulatory compliance; it begins with a mutual commitment and open and honest communication between management and employees and their labor union representatives.

In a perfect world, people would be completely safe, but transit agency operators deal in everyday realities and risks inherent with providing mass transportation services via bus, rail and/or inclined planes. To mitigate hazards and to prevent incidents that could result in tragedies, Pittsburgh Regional Transit will continue its commitment and draw upon the expertise of its employees and customers to enhance that mission, in close collaboration with its existing federal and state oversight entities, its employees and labor union representatives.

Thank you for the opportunity to provide remarks on this legislation. Pittsburgh Regional Transit is happy to address any questions or provide additional information regarding the information included in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kelleman', written in a cursive style.

Katharine E. Kelleman  
Chief Executive Officer  
Pittsburgh Regional Transit  
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