



**TESTIMONY OF THE
PENNSYLVANIA SCHOOL BOARDS ASSOCIATION
BEFORE THE HOUSE COMMITTEE ON LABOR AND INDUSTRY,
SUBCOMMITTEE ON WORKERS' COMPENSATION AND WORKER
PROTECTION**

**REGARDING
HOUSE BILL 2860 (Nelson), P.N. 3530
RELATING TO PUBLIC SECTOR SAFETY DATA**

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Good morning Chairman Nelson, Chairwomen Snyder and members of the Labor and Industry Subcommittee on Workers' Compensation and Worker Protection. Thank you for inviting the Pennsylvania School Boards Association to present testimony regarding public sector workplace safety and House Bill 2860, proposing the creation of an OSHA-style data reporting system for the purpose of evaluating safety issues in public sector workplaces. I am Stuart Knade, PSBA's Chief Legal Officer.

PSBA commends the sponsors' commitment to gathering and studying data that will inform the General Assembly in determining whether the Commonwealth truly needs a state public sector analog to the federal Occupational Safety and Health Act. As you are aware, PSBA has testified previously in opposition to bills proposing to create a

state public sector OSHA regime, in part because we believe that doing so is unlikely to improve public sector workplace safety outcomes beyond what existing safety requirements applicable to public sector workplaces in the Commonwealth are already accomplishing, and that therefore any marginal benefit would not justify the massive cost in funds that could be better spent addressing much bigger problems that impact far more citizens. But without comparative data, it can be a challenge to validate this belief beyond a common sense recognition that under OSHA's classification system the vast majority of public sector workplaces in the Commonwealth would be regarded as establishments in low-hazard industries mostly exempt from OSHA's record-keeping and reporting requirements.

Accordingly, PSBA fully supports the concept of analyzing data providing a meaningful comparison between private sector and public sector workplace safety experience in Pennsylvania. However, we believe that starting out with the approach taken in House Bill 2860 skips an important and far more cost-effective step---first analyze the safety data we already collect, which we believe would provide a more complete picture anyway. We urge the sponsors and the Committee to consider instead simply directing that analysis be done, but with existing data.

We are also troubled by the assertion in the bill that *“Most private sector employers are required to comply with OSHA regulations for recording and reporting work-related injuries and illnesses”*. This is contrary to our understanding and to what OSHA says. The note to Subpart B of the OSHA regulations at 29 C.F.R. Part 1904 says:

*“All employers covered by the Occupational Safety and Health Act (OSH Act) are covered by these part 1904 regulations. **However, most employers do not have to keep OSHA injury and illness records unless OSHA or the Bureau of Labor Statistics (BLS) informs them in writing that they must keep records.** For example, employers with 10 or fewer employees and business establishments in certain industry classifications are partially exempt from keeping OSHA injury and illness records.”*

Thus, it is true that most or all private sector employers are “covered” by OSHA, but the majority of them are in partially exempt industries. Not only are those partially exempt employers not required to keep records of workplace injuries in OSHA 300 logs unless directed to do so, but they also are not required to report injuries to OSHA unless they result in death, hospital admission, amputation or loss of an eye.

It takes only a brief look at the list of partially exempt industry classifications in Appendix B to part 1904 to see that most public sector workplaces tend to be most analogous to those partially exempt, low hazard workplaces. If as House Bill 2860 proposes the same exemptions would be applied to similar workplaces for purposes of that data collection regime, few public sector employers would be submitting data other than fatalities, amputations, hospitalizations and eye loss. And even if they were not exempted from more extensive reporting for this purpose, what private sector data would it be compared to?

By contrast, both private sector and public sector employers in Pennsylvania already are required by our Workers’ Compensation Act and implementing regulations to keep records of all injuries and to report all significant injuries to the Department of Labor and Industry’s Bureau of Workers’ Compensation. See 77 P.S. § 994; 34 Pa. Code § 121.5. Significant injuries are those resulting in death or that put an employee out of work for an entire shift or workday. This data already in the hands of the Department not only is far more complete and allows similar workplaces to be compared on more of an apples-to-apples basis, but the manner of collection is one that both private sector and public sector employers already are familiar with and used to using.

In short, in order to learn what needs to be learned, we do not think it requires what House Bill 2860 proposes. PSBA believes that before embarking on an effort to collect more and likely duplicative information by imposing new and unfamiliar record-keeping and reporting obligations, the existing data should be studied first. Only after that will it make sense to determine if further data collection is warranted.

It is encouraging to hear discussions of alternative approaches for assessing safety needs for public sector workplaces, such as the partnership for this purpose the Wolf administration has announced with Indiana University of Pennsylvania's Safety Sciences Department. The existing data also could be studied by the Legislative Budget and Finance Committee or the Joint State Government Commission, which PSBA also understands may be under consideration. We urge the Committee to prioritize those alternatives.

Nonetheless, if what House Bill 2860 proposes becomes the chosen path forward, we strongly recommend that it include sunset provisions, to ensure that a new data reporting regime intended to provide information for a one-time study does not become permanently embedded in an ever-growing pile of unfunded mandates.

Whichever path is taken, PSBA is confident that it will confirm that the numerous workplace safety measures Pennsylvania already has in place covering both public sector and private sector workplaces are working, are as effective as anything adding a state OSHA layer could produce, and that the vast majority of public sector workplaces would indeed be regarded under OSHA as low hazard workplaces exempt from most OSHA recordkeeping and reporting.

I thank you for your attention and this opportunity to provide our input, and I will be happy to try to answer any questions you may have.