

House Labor and Industry Committee

10/24/22, 10:00 a.m., Room 515, Irvis Office Building

By Derek Danneker, Pennsylvania Legislative Services

The committee held a public hearing of the subcommittee on workers' compensation and worker protection to discuss House Bill 2860.

HB 2860 Nelson, Eric - (PN 3530) The Public Sector Worker Safety Data Analysis Act provides for public sector worker safety data analysis; and imposes duties on the Department of Labor and Industry (L&I). Provides for definitions. Directs L&I to establish a program to require the reporting and recording of work-related injuries and illnesses by public sector employees in a manner substantially similar to the requirements for other employers. Provides a public sector employer, if requested by L&I or the U.S. Department of Labor Bureau of Labor Statistics, shall respond to the Survey of Occupational Injuries and Illnesses no later than the deadlines specified in the request. Provides for L&I to publish a list of public sector employers that failed to respond to the survey on a publicly accessible site. Clarifies nondisclosure requirements, Right-to-Know Law exceptions and disclosure of records for limited purposes. Provides for use of information collected. Allows up to \$1,500,000 appropriated by the General Assembly to L&I from the Workmen's Compensation Administration Fund to be used annually for the act. Provides for annual reports to be issued to the governor and chairmen and minority chairmen of the Labor and Industry Committee in both chambers and outlines contents. Requires reports to be published on L&I's website. Effective in 60 days.

Rep. Nelson, chairman of the subcommittee, explained he introduced House Bill 2860 to address workplace safety issues within the public sector. "Our goal is to determine if public sector employees are being injured more severely or at a greater rate than private sector employees working in similar jobs," he said.

Scott Weiant, deputy secretary, Department of Labor and Industry (L&I), remarked public sector workers put themselves in danger each day while performing services to support the lives of citizens. He reiterated the reporting requirements enshrined in the legislation and added that Gov. Tom Wolf issued several executive orders designed to implement Occupational Safety and Health Administration (OSHA) standards in the public sector. He suggested that while the data the departments would present may help identify potential issues within the public sector, the funding and deadlines within the bill may not be sufficient.

Dr. John Mulroy, director, PA OSHA Consultation, explained his work as a professor at Indiana University of Pennsylvania (IUP) where he is conducting a study of safety in the public sector. He reported that while there are more fatal accidents in the private sector, public sector fatal accidents are more likely to have the cause of death reported as "unknown." He remarked that claims regarding the excessive cost of instituting reporting requirements and training similar to OSHA were unsubstantiated. "Overall, House Bill 2860 mechanisms for public sector recording and reporting will provide ample detail to successfully calculate incidence rates for individual public sector establishments annually," he said.

Keith Wentz, risk management director, County Commissioners Association of Pennsylvania (CCAP), detailed the differences between public and private sector occupations and suggested that injury reporting mechanisms may not be sufficient. "While the injury data may be recorded, understanding the unique workplace hazards and exposures cannot be taken into account," he said. Wentz requested that if the bill were passed, departments sufficiently support counties in complying with the legislation. He pointed out that the bill does not require public sector reporters to indicate situational, circumstantial, or systemic problems that contributed to the workplace incident. Wentz indicated that he does not believe additional statistical data will show the private sector to be safer than the public sector. "We believe that we have demonstrated a commitment to worker safety in current practice and we do not believe that regulatory requirements and fines will improve worker safety for local government employees," he said. "We believe that the financial incentives and financial self-interest inherent in the workers' compensation system and liability risk management programs provide a far better path to doing the right thing for worker safety than a new and expensive regulatory environment that could instead divert resources away from existing safety programs."

Stephen Cantanese, president, SEIU Local 668, detailed the dangers public sector workers face without protections similar to OSHA. "All workers, regardless of their employer, deserve the right to safety on the job and a healthy workplace," he said. "We can all agree when we go to work, no matter what our occupation may be, we should return home to our loved ones safely at the end of the day. There is no reason my members in the public sector should have fewer rights than those in the private sector." He reported that violence against public sector workers is more than ten times greater for government health care and social service workers. He verbalized support for the bill and lauded the role of a comprehensive reporting mechanism in keeping public sector workers safe.

Stuart Knade, chief legal officer, Public School Boards Association (PSBA), explained that while the organization previously opposed implementing regulations similar to OSHA, he does support further gathering of comparative data. However, he pointed out the public sector should first analyze the data that is currently collected, rather than

implementing new reporting mechanisms. He suggested that if the bill were passed, 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 instantiated. "PSBA is confident that studies 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," he said.

Sarah Hammond, legislative director, PA AFL-CIO, explained reporting requirements in House Bill 2860 would be sufficient enough to identify specific areas of concern and allow policymakers to make informed decisions. She provided background information on the legislation and OSHA. Hammond argued that public sector workers do not have the same rights as private sector employees, as proven through insurance company data. "Public sector workers in Pennsylvania must not continue to be regarded as second-class workers to their private sector peers, and they must not be treated as such," she said. "House Bill 2860 will ensure that every workplace catastrophic injury and illness is documented appropriately and in accordance with the same uniformly established standards across the board."

Rep. Gregory explained that while some testifiers have provided fact-based testimony, others have delivered testimony based on their emotions. He stated that he is "on the side of emotional testimony." He detailed that information related to the death of a public sector employee in his district was not released. He questioned if House Bill 2860 would provide information related to where and how a public sector employee died. Hammond emphasized the importance of reporting information related to workplace fatalities to prevent more deaths in the future. Cantanese acknowledged the many emotions regarding the topic. He stated that the inability to capture data inside public workplaces has made it difficult to implement solutions to stop incidents from reoccurring. Weiant suggested the bill would provide additional support to the Pennsylvania Training for Health and Safety (PATHS) program.

Rep. Nelson noted that some small publicly funded organizations are required to follow OSHA regulations but not OSHA reporting requirements. He asked Weiant to detail some training services that are provided at no cost for compliant entities. Weiant explained an outreach program began in 2012, which trains 46,000 people each year.

Rep. Nelson questioned why 15 percent of local governments engage in voluntary reporting. Weiant agreed the participation rate is low

Rep. Nelson asked if workers' compensation data can be used to compare public sector to private sector information. Dr. Mulroy said the workers' compensation database is designed to compensate workers for injuries on the job but leaves many informational gaps.

Rep. Nelson asked how data can help safety professionals in their work. Dr. Mulroy detailed the "double standard" that exists between public and private sector workers. He described a large amount of information OSHA reporting data provides to his profession in the private sector and contrasted that with the lack of data in the public sector. "It keeps me up at night to know public sector workers work under a double standard," he said.

Rep. Nelson reiterated his bill requires the public sector to report workplace injuries and would create a "snapshot" of where and how fatalities are happening. Wentz confirmed he is unable to determine "with any degree of scientific certainty" where risk resides in the public sector.

Rep. Davanzo described his previous work as a carpenter and how several of his colleagues died. He endorsed the legislation.

Rep. Nelson questioned how data collection should operate in the public sector. Wentz explained the bill would require public entities to use reporting methods that are currently used in the private sector. "We could make it very easy and seamless for employers to report data," he said.

Rep. Nelson asked what the next steps should be in making the public sector safer. Wentz detailed a project at Carnegie Mellon University, which provides predictability analytics to determine future injuries. He stated that more data would make the project more accurate. He said he does not anticipate additional reporting to be a hardship for the public sector.

Rep. Nelson inquired if the testifiers believed the committee should consider any other matters related to public sector safety. Weiant suggested the committee consider if regulations similar to OSHA would make the public sector safer than their current regulations. Knade described the current safety standards.

Eric Wolf, chair, risk management director, County Commissioners Association of Pennsylvania (CCAP); **Jennie Shade**, director of government relations, Pennsylvania Municipal Authorities Association (PMAA); and **The Pennsylvania State Association of Township Supervisors (PSATS)** submitted written testimony.