



**Written Testimony of Deputy Secretary Scott G. Weiant  
Department of Labor & Industry**

**before the House Labor and Industry, Workers' Compensation Sub-Committee**

**Harrisburg, Pennsylvania**

**October 24, 2022**

Good morning Sub-committee Chairs Nelson and Snyder, sub-committee members and committee staff. I appreciate the opportunity to testify today before the House Workers' Compensation Sub-Committee on House Bill 2860, the Worker Safety Data Analysis Act. My name is Scott Weiant and I am the Deputy Secretary for Compensation and Insurance at the Department of Labor & Industry.

House Bill 2860 was introduced to enable public sector worker safety data analysis. It also imposes duties on the Department of Labor and Industry (Department) related to data collection and analysis, as well as reporting, communication and training.

Each day, public sector workers put themselves in harm's way, while performing services to better the lives of all Pennsylvania citizens. Unfortunately, these workers are sometimes injured or become ill in the course and scope of their duties. House Bill 2860 would provide for reporting of these public employee workplace injury or illness incidents. Analysis of this data could enhance efforts to prevent or mitigate workplace injuries and illnesses.

House Bill 2860 would require public sector employers to record and report work-related injuries and illnesses, similar to the obligations imposed on private employers under 29 CFR Part 1904. It would also require public sector employers to participate in the Survey of Occupational Injuries and Illnesses (SOII), when requested by the Department. The bill further provides for the use of information collected to compare public sector work-related outcomes with the private sector, identify and analyze workplace injury and illness trends, improve workplace safety programs, perform cost analyses, and provide informational workplace safety resources. The Department would be required to prepare an annual report providing a summary of the public employee work-related injury and illness information, provide an analysis of reasons for significant differences in frequency or severity of work-related injuries or illnesses between public and private sector occupations, provide a list of public sector employers that failed to record and report or respond to the SOII, and make recommendations to the Governor and General Assembly. The bill proposes to fund the Act by authorizing a maximum of \$1.5 million from Workmen's Compensation Administration Fund annually.

Keeping all employees in Pennsylvania safe on the job, including public employees, is a priority. On October 21, 2021, Governor Wolf signed Executive Order 2021-06 (EO 2021-06), relating to Worker Protection and Investment. Included in that Order are several provisions intended to advance the cause of worker safety. Specifically, Governor Wolf directed the Department to study the feasibility of implementing Occupational Safety and Health Administration (OSHA) standards in offices under the Governor's jurisdiction. In addition to studying the feasibility of implementing OSHA standards in commonwealth workplaces,

Governor Wolf is calling for OSHA safety rules to be extended to all employees, rather than just those in the private sector.

In response to EO 2021-06, the Department and the Office of Administration partnered with Indiana University of Pennsylvania (IUP) to conduct a study of historical Commonwealth injury and illness data; conduct a gap analysis to identify differences between OSHA standards and current commonwealth safety standards for accident and illness prevention. IUP is also evaluating the technical feasibility of implementing OSHA requirements for all offices under the Governor's jurisdiction. In addition, the study seeks to identify the impact of extending OSHA protections to all public sector employees in Pennsylvania. The study does not include federal government workers, including those employed by the United States Postal Service and civilian workers on military bases in PA. The final draft of the IUP study will be completed in the next week or two.

Both the Governor's Executive Order and HB 2680 target the same objective, to improve safety for public sector employees. HB 2860 could have a positive impact on workplace safety for public employees. Data collected under this Act could provide insight into the safety of public sector workplaces, which may lead to an increase in safety awareness and proactive measures. Safer workplaces mean lower injury and illness costs and employees returning home to their families healthy and injury free.

While the intent and purpose of the bill is admirable, there are several issues to resolve. First, the SOII program is a federal program and data sharing, as well as posting names of non-participating employers, is prohibited by the Bureau of Labor Statistics. Second, the funding identified to support identified Department tasks may not be sufficient to create a reporting

repository, add additional staff, and fund a partnership to analyze the data as directed in the bill. The withdrawal of \$1.5 million annually to support these efforts would result in higher assessments levied upon workers' compensation insurance carriers, which is in turn passed on to employers in Pennsylvania. Third, the deadlines in HB 2860 may not allow the Department time to complete its obligations and to promulgate regulations before it is required to establish the program under Section 4(a). The limited timeframe could also create challenges in obtaining a partner to conduct data analysis and fulfill the reporting requirements, while still complying with commonwealth procurement policies.

The Department of Labor and Industry remains committed to working with the General Assembly and all stakeholders to identify ways to enhance workplace safety in Pennsylvania. The Department has certified over 13,000 certified workplace safety committees since the inception of the program, and annually trains over 46,000 Pennsylvania employees in over 200 health & safety related topics through the Departments PATHS program. The Department strives to continue advancing workplace safety throughout this Commonwealth to ensure both public and private workplaces are free of hazards for all employees.

The Department looks forward to continuing the dialogue and working toward resolution of these issues in an effort to continue to advance the cause of worker safety. I would again like to thank this committee for the opportunity to testify today regarding House Bill 2860. I would be glad to answer any questions that you may have.

Greetings Chairpersons Nelson and Snyder, and the members of the Subcommittee on Workers' Compensation and Worker Protection.

I'm Dr. John Michael Mulroy, assistant professor in the Department of Safety Sciences at Indiana University of Pennsylvania. I am the Program Director for Pennsylvania OSHA Consultation, the sole agency within Commonwealth since 1983 providing no-cost, OSHA compliance assistance to private sector employers through a \$2.2 million annual grant. This grant is 90% funded by federal Occupational Safety & Health Administration (OSHA) and 10% by the Pennsylvania Bureau of Workers Compensation, satisfying the Commonwealth's obligation for its 21(d) cooperative agreement promulgated under 29 CFR 1908.1.

I received a PhD in occupational safety and health from IUP and a master's degree in environmental management from Duquesne University. I am a board-certified occupational safety and health professional and a professional member of the American Society of Safety Professionals. My professional career spans 25 years in heavy manufacturing, heavy construction, fossil and wind power generation, loss control, and academia.

The purpose of my testimony is to support House Bill 2860, known as "The Public Sector Worker Safety Data Analysis Act."

To begin, it is important to acknowledge the remarkable similarities between House Bill 2860 and the Final Rule published by OSHA in the Federal Register November 26, 2004. That Final Rule amended the Agency's injury recordkeeping requirements, requiring federal Executive Branch agencies to record and annually report injury and illness events "essentially identical" to those in the private sector.

We meet here today to consider the same of our state-level public sector agencies and employers.

According to OSHA's Final Rule, titled "Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters; Subpart I for Recordkeeping and Reporting Requirements," Executive Branch agencies are required to record and report injury and illness events using the same regulations covering private sector employers. Standardizing recordkeeping across the federal agencies, instead of continuing to use existing federal workers' compensation reporting system would, according to OSHA:

*...produce more useful injury and illness records, collect better information about the incidence of occupational injuries and illnesses at the establishment level, create recording and reporting of job-related injuries and illnesses (p. 1).*

House Bill 2860 can provide our state-level key decision makers with detailed data and information necessary to identify, evaluate, qualify, quantify, and control highest degrees of severe injury and fatal injury/illness risk present throughout the public sector. Providing our public sector employers and workers the information they need to understand the complex

nature of occupational hazards in their own establishments will measurably reduce costly injuries and occupational illness.

Data collected and analyzed through House Bill 2860 would reveal critical trends in injury and illness experience, as well as substantial residual risk associated with unplanned or non-routine work, problematic or inadequately planned work tasks, faulty or antiquated equipment, and safety and health training deficiencies. With this information now readily available, Pennsylvania public sector employers will be better informed to plan and execute tasks identified as potentially high hazard. Policymakers, and public sector decision makers, can then direct their limited resources to evaluate and control or eliminate those workplace hazards before a worker is injured.

Injury and illness data collected annually by House Bill 2860 will provide state policymakers and public sector employers better detailed data which, as the Department of Safety Sciences testified in detail on May 27, 2021, is not available today using the current workers' compensation system.

Dr. Luz Marin of our Safety Sciences faculty testified before this Subcommittee in 2021 regarding this point; she reported in 2019 there were 101 work-related fatal injury events in Pennsylvania. Of those 101 fatal injuries, 7 were in local government, 12 in state government, and 60 were private sector. However, the employer's classification, either private or public, for 22 of the 101 fatal injuries were marked as "unknown." That is 22%, or 1 in 5, of all fatal injuries in 2019 where we are unsure of the correct employer classification.

Furthermore, the evaluation of the workers' compensation database and the fatal injury data entered by public sector employers in 2019 revealed the "injury cause" for 4 of the 7 fatalities in local government, and 3 of the 12 reported fatal injuries in state government, were found to be classified as "other – miscellaneous, no other causes (NOC)."

In practical terms, 37% of the fatal injuries in Pennsylvania's state and local governments included no discernable or identifiable cause for the fatal injury. That means state agency safety and health leadership cannot develop effective, targeted corrective or preventive action to avoid similar or even identical fatal injury recurrence unless they have direct, firsthand knowledge of each injury event.

Continuing to rely upon the state workers' compensation for recording, reporting, and understanding the mechanism of serious and fatal injuries and illnesses is not the solution. Simply stated, workers' compensation data collection and OSHA injury and illness data collection have two very different end goals.

Analyzing workers' compensation records for severity potential proved difficult, therefore data collection must be improved. Without those changes, compensation-related data will be insufficient to adequately benchmark for comparative purposes and determining if desired safety and health outcomes have been met.