

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2860 Session of  
2022

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RIGBY, SCHEMEL AND KLUNK, SEPTEMBER 29, 2022

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, SEPTEMBER 29, 2022

AN ACT

1 Providing for public sector worker safety data analysis; and  
2 imposing duties on the Department of Labor and Industry.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Public Sector  
7 Worker Safety Data Analysis Act.

8 Section 2. Findings and declarations.

9 The General Assembly finds and declares as follows:

10 (1) The Occupational Safety and Health Act of 1970  
11 (Public Law 91-596, 29 U.S.C. § 651 et seq.) provides for the  
12 adoption of workplace safety standards that apply to private  
13 sector workplaces. Most private sector employers are required  
14 to comply with OSHA regulations for recording and reporting  
15 work-related injuries and illnesses under 29 CFR Pt. 1904  
16 (relating to recording and reporting occupational injuries  
17 and illnesses).

1           (2) In Pennsylvania, safety standards for public sector  
2 employees are not governed by OSHA, and public sector  
3 employers are not required to record and report work-related  
4 injuries and illnesses in a manner comparable to OSHA  
5 requirements for private sector employers.

6           (3) The lack of comparable data of workplace injuries  
7 and illnesses in the public sector makes it difficult to  
8 meaningfully compare the safety outcomes for public sector  
9 employees with the outcomes for private sector employees in  
10 similarly situated occupations.

11           (4) Safety standards applicable to public sector  
12 employees may vary widely, depending on the type of employer  
13 and any specific Federal or State statutes or regulations  
14 that may apply.

15           (5) The General Assembly finds that it is necessary to  
16 provide for the collection of data on work-related injuries  
17 and illnesses in the public sector in a manner that allows  
18 for a meaningful comparison with data collected from private  
19 sector employers under 29 CFR Pt. 1904 and through the Survey  
20 of Occupational Injuries and Illnesses.

21           (6) The General Assembly further finds that a meaningful  
22 comparison of the safety outcomes for private sector  
23 employees with those of similarly situated public sector  
24 employees is necessary to determine the appropriate safety  
25 standards for the various occupations in public sector  
26 employment.

### 27 Section 3. Definitions.

28       The following words and phrases when used in this act shall  
29 have the meanings given to them in this section unless the  
30 context clearly indicates otherwise:

1 "Data analysis partner." An entity that, pursuant to a  
2 contract or memoranda of understanding, provides services  
3 related to the collection or analysis of workplace injury data  
4 at the request of the department.

5 "Department." The Department of Labor and Industry of the  
6 Commonwealth.

7 "OSHA." The Occupational Safety and Health Administration  
8 within the United States Department of Labor.

9 "Pennsylvania OSHA Consultation." The program designated by  
10 OSHA pursuant to Federal regulations to provide consultation  
11 services to employers in this Commonwealth.

12 "Public sector employer." The Commonwealth, a political  
13 subdivision of the Commonwealth or an authority or  
14 instrumentality of the Commonwealth or political subdivision of  
15 the Commonwealth, if the entity is not subject to the  
16 requirements of 29 CFR Pt. 1904 (relating to recording and  
17 reporting occupational injuries and illnesses).

18 "Survey of Occupational Injuries and Illnesses." The survey  
19 conducted by the United States Department of Labor, Bureau of  
20 Labor Statistics in cooperation with State agencies, including  
21 the department, which compiles data on work-related injuries and  
22 illnesses.

23 Section 4. Recording and reporting of work-related injuries and  
24 illnesses.

25 (a) Program.--Within one year of the effective date of this  
26 subsection, the department shall establish a program to require  
27 the reporting and recording of work-related injuries and  
28 illnesses by public sector employers in a manner substantially  
29 similar to the requirements for other employers under 29 CFR Pt.  
30 1904 (relating to recording and reporting occupational injuries

1 and illnesses). The following apply:

2 (1) Prior to the implementation of the program, the  
3 department, in consultation with Pennsylvania OSHA  
4 Consultation, shall conduct a review of the provisions of 29  
5 CFR Pt. 1904 and the forms and reporting methods used by OSHA  
6 for the recording and reporting of work-related injuries and  
7 illnesses.

8 (2) When establishing the recording and reporting  
9 requirements, the department, in consultation with groups  
10 representing public sector employers, shall identify the  
11 least burdensome methods of information on recording and  
12 reporting work-related injuries and illnesses.

13 (3) The department shall require public sector employers  
14 to record and report the same illness and injury information  
15 required to be recorded and reported under 29 CFR Pt. 1904.

16 (4) The department may select deadlines for recording  
17 and reporting illness and injury information by public sector  
18 employers, which are the same as or substantially similar to  
19 the deadlines for recording and reporting illness and injury  
20 information under 29 CFR Pt. 1904.

21 (5) If 29 CFR Pt. 1904 provides exemptions or partial  
22 exemptions from recording and reporting requirements based on  
23 the number of employees, the nature of the industry or  
24 occupation or any other criteria, the department shall  
25 provide exemptions or partial exemptions from the recording  
26 and reporting requirements established under this section in  
27 a commensurate manner to similarly situated public sector  
28 employers.

29 (6) In lieu of individual public sector employers  
30 reporting workplace injury and illness information required

1 by the department under this section, an association  
2 representing a group of similarly situated public employers  
3 may report the required information, if both of the following  
4 apply:

5 (i) The information reported by the association  
6 includes a list of the required information for each  
7 individual employer.

8 (ii) The information reported by the association is  
9 submitted in a manner acceptable to the department.

10 (7) Prior to the beginning of recording and reporting  
11 requirements as provided in subsection (b)(1), the department  
12 shall engage with public sector employers to make them aware  
13 of the requirements of this act and provide educational  
14 resources and technical support to assist public sector  
15 employers in complying with new reporting requirements. These  
16 efforts shall include:

17 (i) Publicizing the requirements of this act in the  
18 news media and on the department's publicly accessible  
19 Internet website.

20 (ii) Engaging groups or associations consisting of  
21 public sector employers to educate public sector  
22 employers about the requirements of this act.

23 (iii) Providing guidance and instructional resources  
24 on the department's publicly accessible Internet website.

25 (iv) Hosting in-person or virtual training sessions  
26 for public sector employers to learn the recording and  
27 reporting requirements of this act.

28 (b) Recording and reporting information.--

29 (1) Beginning on January 1 of the calendar year that  
30 begins between one year and two years after the effective

1 date of this subsection, selected public sector employers  
2 shall record and report information on work-related injuries  
3 and illnesses as required by the department under subsection  
4 (a).

5 (2) For the purposes of providing support to public  
6 sector employers under subsection (a)(7), the department may  
7 authorize voluntary recording and reporting prior to the  
8 beginning of recording and reporting requirements under  
9 paragraph (1).

10 (3) The department may annually publish on its publicly  
11 accessible Internet website a list of public sector employers  
12 that failed to comply with reporting requirements implemented  
13 under subsection (a).

14 Section 5. Survey of Occupational Injuries and Illnesses.

15 (a) Response.--If requested by the department or the United  
16 States Department of Labor, Bureau of Labor Statistics, a public  
17 sector employer that is required to record and report work-  
18 related injuries and illnesses in accordance with section 4  
19 shall respond to the Survey of Occupational Injuries and  
20 Illnesses no later than the deadlines for a response specified  
21 in the request.

22 (b) Website publication.--The department may annually  
23 publish on its publicly accessible Internet website a list of  
24 public sector employers that failed to respond to the Survey of  
25 Occupational Injuries and Illnesses as required by subsection  
26 (a).

27 Section 6. Individually identifiable health information.

28 (a) Nondisclosure requirement.--A public sector employer,  
29 Pennsylvania OSHA Consultation, a data analysis partner or the  
30 department may not disclose any record containing individually

1 identifiable health information to any person unless authorized  
2 by this act.

3 (b) Right-to-Know Law.--A record or report of work-related  
4 injuries and illnesses containing individually identifiable  
5 health information shall be considered an exception under  
6 section 708(b)(5) of the act of February 14, 2008 (P.L.6, No.3),  
7 known as the Right-to-Know Law.

8 (c) Disclosure of records for limited purposes.--The  
9 department may provide records containing individually  
10 identifiable health information to Pennsylvania OSHA  
11 Consultation or a data analysis partner for the purposes  
12 authorized under section 7, only if individual names are  
13 redacted prior to providing the records.

14 Section 7. Use of information.

15 The department may use the information collected under this  
16 act, in cooperation with Pennsylvania OSHA Consultation and data  
17 analysis partners, as follows:

18 (1) To compare the nature, frequency and severity of  
19 work-related injuries and illnesses in public sector  
20 occupations with those of similarly situated private sector  
21 occupations.

22 (2) To improve department programs related to workplace  
23 safety.

24 (3) To identify and analyze trends and concerns related  
25 to workplace injuries and illnesses.

26 (4) To provide informational resources related to  
27 workplace safety or the avoidance of work-related injuries  
28 and illnesses.

29 (5) For the purposes of analyzing the costs of work-  
30 related injuries and illnesses in public sector occupations.

(6) For the purposes of preparing the annual report required under section 9 or making recommendations to the Governor or the General Assembly.

Section 8. Funding.

Notwithstanding the limitations provided in section 446 of the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, up to \$1,500,000 of the sum appropriated by the General Assembly to the department from the Workmen's Compensation Administration Fund may be used annually for the purposes of this act, subject to any specific limitations provided in any statute appropriating that money.

Section 9. Annual reports.

(a) Requirement.--Before July 1 following the first full calendar year after the beginning of recording and reporting requirements for public sector employers under section 4, and prior to every July 1 thereafter, the department shall prepare an annual report.

(b) Contents.--Each annual report under this section shall contain the following:

(1) A summary of work-related injury and illness information for public sector employees.

(2) A summary of work-related injury and illness information for each public sector occupation.

(3) A comparison of work-related injury and illness information for public sector occupations and similar private sector occupations.

(4) An analysis of the reasons for any significant differences in the frequency or severity of work-related injury and illness between public sector occupations and similar private sector occupations.

1           (5) Recommendations to the Governor and the General  
2 Assembly.

3           (6) A list of public sector employers that failed to  
4 record and report information when required in accordance  
5 with section 4 or that failed to respond to the Survey of  
6 Occupational Injuries and Illnesses when requested in  
7 accordance with section 5.

8           (7) Any other information or analysis that the  
9 department deems appropriate.

10       (c) Submittal.--Each annual report under this section shall  
11 be submitted to the following:

12           (1) The Governor.

13           (2) The chairperson and minority chairperson of the  
14 Labor and Industry Committee of the Senate.

15           (3) The chairperson and minority chairperson of the  
16 Labor and Industry Committee of the House of Representatives.

17       (d) Posting.--Each report under this section shall be posted  
18 on the department's publicly accessible Internet website.

19 Section 10. Regulations.

20       The department may promulgate regulations necessary to  
21 implement this act.

22 Section 11. Effective date.

23       This act shall take effect in 60 days.