
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 959 Session of
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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, APRIL 24, 2023

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 fully or partially comply with OSHA regulations for
15 recording and reporting work-related injuries and illnesses
16 under 29 CFR Pt. 1904 (relating to recording and reporting
17 occupational injuries 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) It is necessary to provide for the collection of
16 data on work-related injuries and illnesses in the public
17 sector in a manner that allows for a meaningful comparison
18 with data collected from private sector employers under 29
19 CFR Pt. 1904 and through the Survey of Occupational Injuries
20 and Illnesses.

21 (6) A meaningful comparison of the safety outcomes for
22 private sector employees with those of similarly situated
23 public sector employees is necessary to determine the
24 appropriate safety standards for the various occupations in
25 public sector employment.

26 Section 3. Definitions.

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

30 "Data analysis partner." An entity that, pursuant to a

1 contract or memoranda of understanding, provides services
2 related to the collection or analysis of workplace injury data
3 at the request of the department.

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

6 "Group self-insurance administrator." As the term
7 "administrator" is defined in section 801 of the act of June 2,
8 1915 (P.L.736, No.338), known as the Workers' Compensation Act.

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

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

14 "Public sector employer." Any of the following, if the
15 entity is not subject to the requirements of 29 CFR Pt. 1904
16 (relating to recording and reporting occupational injuries and
17 illnesses):

18 (1) The Commonwealth.

19 (2) A political subdivision of the Commonwealth.

20 (3) An authority or instrumentality of the Commonwealth
21 or political subdivision of the Commonwealth.

22 (4) A school entity.

23 "School entity." A school district, intermediate unit, area
24 career and technical school, charter school, cyber charter
25 school or regional charter school.

26 "Survey of Occupational Injuries and Illnesses." The survey
27 conducted by the United States Department of Labor, Bureau of
28 Labor Statistics, in cooperation with State agencies, including
29 the department, which compiles data on work-related injuries and
30 illnesses.

1 Section 4. Recording and reporting of work-related injuries and
2 illnesses.

3 (a) Program.--Within two years of the effective date of this
4 subsection, the department shall establish a program to require
5 the reporting and recording of work-related injuries and
6 illnesses by public sector employers in a manner substantially
7 similar to the requirements for other employers under 29 CFR Pt.
8 1904 (relating to recording and reporting occupational injuries
9 and illnesses). The following apply:

10 (1) Prior to the implementation of the program, the
11 department, in consultation with Pennsylvania OSHA
12 Consultation, shall conduct a review of the provisions of 29
13 CFR Pt. 1904 and the forms and reporting methods used by OSHA
14 for the recording and reporting of work-related injuries and
15 illnesses.

16 (2) When establishing the recording and reporting
17 requirements, the department, in consultation with groups
18 representing public sector employers, shall identify the
19 least burdensome methods of recording and reporting work-
20 related injuries and illnesses.

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

24 (4) The department may select deadlines for recording
25 and reporting illness and injury information by public sector
26 employers, which are the same as or substantially similar to
27 the deadlines for recording and reporting illness and injury
28 information under 29 CFR Pt. 1904.

29 (5) If 29 CFR Pt. 1904 provides exemptions or partial
30 exemptions from recording and reporting requirements based on

1 the number of employees, the nature of the industry or
2 occupation or any other criteria, the department shall
3 provide exemptions or partial exemptions from the recording
4 and reporting requirements established under this section in
5 a commensurate manner to similarly situated public sector
6 employers. The following apply:

7 (i) To the extent that nonpublic schools are
8 partially exempt from reporting and recording
9 requirements under 29 CFR 1904.2 (relating to partial
10 exemption for establishments in certain industries), a
11 school entity shall be subject to a substantially similar
12 partial exemption.

13 (ii) An employer with 10 or fewer employees shall be
14 subject to a partial exemption substantially similar to
15 the partial exemption provided under 29 CFR 1904.1
16 (relating to partial exemptions for employers with 10 or
17 fewer employees).

18 (6) In lieu of individual public sector employers
19 reporting workplace injury and illness information required
20 by the department under this section, an association or group
21 self-insurance administrator representing a group of
22 similarly situated public employers may report the required
23 information, if both of the following apply:

24 (i) The information reported by the association or
25 group self-insurance administrator includes a list of the
26 required information for each individual employer.

27 (ii) The information reported by the association or
28 group self-insurance administrator is submitted in a
29 manner acceptable to the department.

30 (7) Prior to the beginning of recording and reporting

1 requirements as provided in subsection (b) (1), the department
2 shall engage with public sector employers to make them aware
3 of the requirements of this act and provide educational
4 resources and technical support to assist public sector
5 employers in complying with new reporting requirements. These
6 efforts shall include:

7 (i) Publicizing the requirements of this act in the
8 news media and on the department's publicly accessible
9 Internet website.

10 (ii) Engaging groups or associations consisting of
11 public sector employers to educate public sector
12 employers about the requirements of this act.

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

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

18 (b) Recording and reporting information.--

19 (1) Beginning January 1 of the calendar year that begins
20 between two years and three years after the effective date of
21 this subsection, selected public sector employers shall
22 record and report information on work-related injuries and
23 illnesses as required by the department under subsection (a).

24 (2) For the purposes of providing support to public
25 sector employers under subsection (a) (7), the department may
26 authorize voluntary recording and reporting prior to the
27 beginning of recording and reporting requirements under
28 paragraph (1).

29 (3) The department may annually publish on the
30 department's publicly accessible Internet website a list of

1 public sector employers that failed to comply with reporting
2 requirements implemented under subsection (a).

3 Section 5. Survey of Occupational Injuries and Illnesses.

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

11 (b) Website publication.--

12 (1) Subject to paragraph (2), the department may
13 annually publish on the department's publicly accessible
14 Internet website a list of public sector employers that
15 failed to respond to the Survey of Occupational Injuries and
16 Illnesses as required by subsection (a).

17 (2) The department may not publish any information on
18 the department's publicly accessible Internet website or in
19 any report required under section 9 if the publication would
20 violate Federal law or regulations governing the release of
21 the information.

22 Section 6. Individually identifiable health information.

23 (a) Nondisclosure requirement.--A public sector employer,
24 Pennsylvania OSHA Consultation, a data analysis partner or the
25 department may not disclose any record containing individually
26 identifiable health information to any person unless authorized
27 by this act.

28 (b) Right-to-Know Law.--A record or report of work-related
29 injuries and illnesses containing individually identifiable
30 health information shall be considered an exception under

1 section 708(b)(5) of the act of February 14, 2008 (P.L.6, No.3),
2 known as the Right-to-Know Law.

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

9 Section 7. Use of information.

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

13 (1) To compare the nature, frequency and severity of
14 work-related injuries and illnesses in public sector
15 occupations with those of similarly situated private sector
16 occupations.

17 (2) To improve department programs related to workplace
18 safety.

19 (3) To identify and analyze trends and concerns related
20 to workplace injuries and illnesses.

21 (4) To provide informational resources related to
22 workplace safety or the avoidance of work-related injuries
23 and illnesses.

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

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

29 Section 8. Funding.

30 (a) Implementation cost estimate.--

1 (1) Within 90 days of the effective date of this
2 paragraph, the department shall report the estimated cost of
3 the initial implementation of this act to all of the
4 following:

5 (i) The chairperson and minority chairperson of the
6 Appropriations Committee of the Senate.

7 (ii) The chairperson and minority chairperson of the
8 Appropriations Committee of the House of Representatives.

9 (2) The report under paragraph (1) shall describe the
10 activities and expenses that the department believes will be
11 necessary to implement this act and shall provide specific
12 cost estimates for each category of expense, including
13 categories for implementation of technology, personnel and
14 other types of expense.

15 (3) For each category of expense described under
16 paragraph (2), the report shall specify whether the expense
17 may be paid from money appropriated from the Workmen's
18 Compensation Administration Fund.

19 (b) Ongoing cost estimates.--

20 (1) Within 90 days of the effective date of section 4,
21 the department shall report the estimated annual cost of the
22 administration of this act for each of the next five fiscal
23 years to all of the following:

24 (i) The chairperson and minority chairperson of the
25 Appropriations Committee of the Senate.

26 (ii) The chairperson and minority chairperson of the
27 Appropriations Committee of the House of Representatives.

28 (2) The report under paragraph (1) shall describe the
29 activities and expenses that the department believes will be
30 necessary to administer this act and shall provide specific

1 cost estimates for each category of expense, including
2 maintenance of technology, personnel and other types of
3 expense.

4 (3) For each category of expense described under
5 paragraph (2), the report shall specify whether the expense
6 may be paid from money appropriated from the Workmen's
7 Compensation Administration Fund.

8 Section 9. Annual reports.

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

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

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

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

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

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

27 (5) A list of public sector occupations that do not have
28 significant similarities to private sector occupations,
29 including an analysis of the frequency and severity of work-
30 related injuries and illnesses for these occupations.

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

3 (7) 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 (8) 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 (e) Recommendation for renewal of act.--The seventh annual
20 report required under this section shall include the
21 department's recommendation for whether this act should be
22 renewed prior to the expiration of the program under section 4
23 and the requirements of section 5, along with any suggestions
24 from the department regarding amendments to this act.

25 Section 10. Notice.

26 (a) Publication.--When the department determines that the
27 General Assembly has appropriated adequate funding for the
28 initial implementation of this act, the department shall
29 transmit notice of that fact to the Legislative Reference Bureau
30 for publication in the next available issue of the Pennsylvania

1 Bulletin.

2 (b) Determination.--For the purpose of making the
3 determination under subsection (a), the department:

4 (1) Shall consider adequate funding to be an
5 appropriated amount that is equal to or exceeds the initial
6 cost estimate described in section 8(a).

7 (2) May consider adequate funding to be an appropriated
8 amount that is less than the initial cost estimate described
9 in section 8(a).

10 Section 11. Regulations.

11 The department may promulgate regulations necessary to
12 implement this act.

13 Section 12. Expiration.

14 This act shall expire as follows:

15 (1) The program established under section 4 and the
16 requirements of section 5 shall expire upon the date that is
17 10 years after the January 1 date described in section 4(b).

18 (2) The remainder of this act shall expire upon the date
19 that is 10 years after the July 1 deadline when the first
20 annual report is required to be prepared under section 9(a).

21 Section 13. Effective date.

22 This act shall take effect as follows:

23 (1) The following shall take effect immediately:

24 (i) Section 8.

25 (ii) Section 10.

26 (iii) This section.

27 (2) The remainder of this act shall take effect upon
28 publication of the notice under section 10.