



**TESTIMONY ON
PUBLIC WORKER SAFETY**

Presented to the House Labor and Industry Committee
Workers' Compensation and Worker Protection Subcommittee

Presented by
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Good morning. I am Keith Wentz, Risk Management and Underwriting Manager at the County Commissioners Association of Pennsylvania. The County Commissioners Association of Pennsylvania (CCAP) is a non-profit, non-partisan association representing the commonwealth's 67 counties. I would like to thank Chairman Nelson for the opportunity to address the House Labor and Industry Committee Workers' Compensation and Worker Protection Subcommittee regarding public worker safety today.

CCAP and our county members agree that public worker safety is an important issue and we take considerable measures to ensure that workplaces are safe. First and foremost, most local governments are actively engaged in risk management activities and measures to protect the safety of employees. To promote worker safety and reduce the costs of liability and workers' compensation insurance, counties implement training, workplace inspection, risk management, and other workplace procedures.

A large number of the state's counties are self-insured for workers' compensation, and many are participants in pooled programs, such as CCAP's own programs, that incentivize worker safety through premium reductions earned by completing an extensive array of loss control and prevention activities. Currently, 35 counties participate in CCAP's workers' compensation program and 52 counties participate in CCAP's liability program. Overall, we have experienced remarkably successful safety records and results among participating counties. Furthermore, with the cost of claims being lower than average, we have proof that what we are doing is working to keep employee safe.

It is often larger counties that do not participate directly with CCAP programs, sometimes due to the fact that they are large enough to self-insure and often have large risk management programs. Participants in self-insured programs are required by Department of Labor and Industry regulations to have certain safety programs, including such elements as an employee safety committee, as can be seen for example in Chapter 129 of Title 34 of the Pennsylvania Code.

Governmental workplace safety involves other components of oversight as well. In addition to a plethora of workplace safety statutes and regulations the commonwealth already has in place addressing specific areas of hazard, all public sector employers are required to comply with the Pennsylvania Worker and Community Right to Know Act, which requires employers to provide employees and the community with information about any hazardous materials present in the workplace. The Department of Labor and Industry has developed and periodically updates a list of regulated substances. We are also required to comply with federal commercial driver's license requirements and must also follow PennDOT safety regulations for work zones on public roads where employee risks may be greatest. Significant training hours are mandated by law for our workers, in addition to a great deal of additional training that while not expressly mandated by law, is necessary to mitigate liability exposures.

With counties doing so much right in the public worker safety realm, we believe it is important to note that there are and have long been legislative proposals that would implement

Occupational Safety and Health Act (OSHA) requirements for public employers. We do not believe, however, that stringent regulatory requirements, new administrative overhead, and substantial fines will truly promote or improve worker safety at the local government level. CCAP opposes any effort to enact a state OSHA-type approach that would mandate compliance by political subdivisions or would require political subdivisions to come under the federal law.

We have responded to proposals to implement OSHA for the public sector over more than a decade with concerns for the lack of applicability and benefit counties would see from uprooting all of the safety measures they have in place to shift to OSHA requirements. Furthermore, local government employees, when considered as a whole, engage in limited activities that would be covered by OSHA, so requiring counties to comply with irrelevant rules and documentation requirements is an unnecessary and burdensome mandate.

While some of the prior legislative proposals contained a method for public employers to apply for a temporary variance on an OSHA requirement, this process results in piecemeal regulatory solutions and does not present a long-term alternative to federal regulations that are incompatible with the working conditions of local government employees. Section 1956.1(b) of the federal regulations for OSHA on adopting a state plan for state and local government employees says that “in adopting these requirements and procedures, consideration should be given to differences between public and private employment. For instance, a system of monetary penalties applicable to violations of public employers may not in all cases be necessarily the most appropriate method of achieving compliance.”

Another critical concern for counties is that applying OSHA to counties would be very costly when compared to any potential benefit, both for counties and for the Commonwealth. Specifically with such proposals, we question the need for the legislation in the absence of statistics establishing that there is a worker safety problem in local government. Both proponents and opponents of the legislation have argued its need or lack of need based primarily on philosophy and anecdotal evidence of isolated incidents. Existing statistical data does not indicate that there is any greater incidence of workplace injury in the public sector as compared to the OSHA-covered private sector, and suggests that before embarking on that expensive path, the Committee ask the Department of Labor and Industry to develop a valid statistical study of workplace injuries between comparable public and private sector occupations.

It is our belief that such a comparison will show little material difference between the OSHA-regulated private sector and our public sector counterparts and will support our contention that further legislation is unnecessary. The expenditures implementing OSHA for the public sector would entail, both in diversion of local funds and the cost to the commonwealth of establishing and maintaining a vast new regulatory regime, should be devoted instead to many other pressing and urgent needs.

If any new legislative requirements are being contemplated, it is vital to determine if the measure would truly increase in safety for workers above the many measures already being

taken and would switching protocols from those we believe are working be an appropriate cost to ask taxpayers to shoulder. We believe, for instance, the cost of compliance, including paperwork and filings to comply with OSHA requirements, will be onerous and of minimal additional benefit to workers beyond the public safety procedures already in place. Additionally, some counties are simply too small to be required to follow such regulations and could be forced to raise property taxes to comply with expensive mandates. OSHA was not written with public sector workplaces in mind, and the experience of other states that have tried similar mandates should be carefully studied to learn what it cost and whether it made a true difference in public sector workplace safety.

In closing, I want to reiterate that we strongly believe that worker safety is of vital concern and we also believe that we have demonstrated a commitment to worker safety in current practice. 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 and wish to continue to work within our existing regulations and risk management programs to do what is best for our employees.

Thank you for this opportunity to comment today on county efforts to protect their employees. I will be happy to answer any questions that you may have.