



**TESTIMONY BY
THE PENNSYLVANIA STATE ASSOCIATION OF
TOWNSHIP SUPERVISORS**

**BEFORE THE
HOUSE LABOR & INDUSTRY COMMITTEE**

ON

HB1082 (*PN 1392*)

PRESENTED BY

**ELAM M. HERR,
ASSISTANT EXECUTIVE DIRECTOR**

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HARRISBURG, PA

Chairman Gingrich and members of the House Labor & Industry Committee:

Good morning. My name is Elam M. Herr, and I am the assistant executive director for the Pennsylvania State Association of Township Supervisors. Thank you for the opportunity to appear before you today on behalf of the 1,454 townships in Pennsylvania represented by the Association.

Our townships comprise 95 percent of the Commonwealth's land area and are home to 5.5 million Pennsylvanians — 44 percent of the state's population. These townships are diverse, ranging from rural communities with fewer than 200 residents to more populated communities with more than 60,000 residents. Many townships only employ a few part-time workers and have no departmental structure while other townships have formal departments and dozens of employees.

We extend our appreciation to the sponsors for their concerns about worker safety. However, while we agree that worker safety is an important issue, we do not believe that stringent regulatory requirements with substantial fines will truly promote worker safety at the local government level. PSATS has long been opposed to unfunded mandates and believe this would be another one with minimal value on investment. PSATS opposes any effort to enact a state Occupational Safety and Health Act that would mandate compliance by political subdivisions or require political subdivisions to come under the federal law.

We contend that House Bill 1082 (*PN 1392*) would be costly when compared to the benefit that it may or may not bring. We have not seen any statistics establishing that there is a worker safety problem in local government. The state Department of Labor and Industry does not differentiate between workers' compensation claims made by private employers and those made at the local government level in their statistics.

Township officials are concerned about employee safety and work to ensure that workplaces are safe. Many township supervisors are also employees of the township and any decisions they make as an employer also affects them as an employee. Under current law, 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 state Department of Labor and Industry has developed and maintains a list of regulated substances.

Most OSHA standards are not applicable to local governments, and in fact many of those standards do not make sense for public entities. For example, workers in industrial and manufacturing jobs may have to handle hazardous chemicals or heavy machinery in their day-to-day jobs, whereas the vast majority of public sector jobs do not carry such a high risk. The riskiest work for townships includes road maintenance and construction, and local governments must follow PennDOT safety regulations and the

requirements set forth in the FHWA Manual on Uniform Traffic Control Devices (MUTCD).

To reduce the costs of liability and workers' compensation insurance, townships implement procedures designed to promote worker safety and reduce workers' compensation claims. In addition, townships are already required to comply with federal commercial driver's license requirements.

HB 1082 would require the Secretary of Labor and Industry to adopt in its entirety the federal Occupation, Safety and Health Act rules, and authorize the secretary to develop state standards for situations where no federal standards are currently applicable. As stated above, local government engages in limited activities that would be covered by OSHA, so requiring them to comply with irrelevant requirements and documentation is an unnecessary and burdensome mandate. This truly is a solution in search of a problem. While the proposed legislation contains a method for public employers to apply for a temporary variance on an OSHA requirement, this process is onerous and does not present a long-term solution 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 by public employers may not in all cases be necessarily the most appropriate method of achieving compliance." We believe this legislation would not leave the state any flexibility to adopt requirements that are sensitive to these differences.

The penalties in this legislation appear to be extravagant. While we realize that they are less than what applies to the private sector, the whole notion of financially punishing government does not seem prudent. This is taxpayer money, not that of an individual or a business. The fines for even a technical violation may exceed the amount of compensation for a local township supervisor, borough council member, or other volunteer elected official.

We believe the cost of compliance, including paperwork to comply with this act, will be onerous and of minimal additional benefit to workers beyond public safety procedures already in place. The recordkeeping requirements in this bill are vague, but public employers will have to present unspecified documentation to the Secretary on demand. Many townships simply do not have the administrative resources required to follow such onerous regulations and could be forced to raise property taxes and user fees if forced to comply with this expensive mandate.

While we agree that worker safety is of paramount importance, we do not believe that the costs of regulatory requirements and fines that lead to layoffs are a fair trade. We must oppose House Bill 1082 or any similar legislation that would mandate municipalities to comply with OSHA requirements as an excessive costly burden that will reduce the size of the workforce.

I am also including for your review some specific comments on the bill's language for your consideration. Thank you for this opportunity to comment on House Bill 1082. I will now attempt to answer any questions that you may have.

Additional Comments On HB 1082

- Page 3, Line 24 — The bill defines the term “authorized employee representative” and states that this representative can file a request for inspection and accompany the inspector during a physical inspection of the workplace “for purposes of aiding such inspection.” We question whether it is appropriate for the authorized employee representative to accompany the inspector, especially since it would be the inspector’s job to objectively evaluate the safety of workplace conditions based on adopted workplace safety standards. Also, many local government employees are not unionized and are part of very small workforces.
- Page 6, Line 4 — The Pennsylvania Worker and Community Right to Know Act already requires public sector employers and other non-OSHA covered employees to comply with requirements for employee access to chemical information and training in the workplace. It is unclear why subsection (c) needs to be included here.
- Page 6 Line 29 — The goals and requirements in this section are vague and could be more extensive than local government resources.
- Page 8, Line 15; Page 11, Line 28; and Page 13, Line 10 — The legislation includes provisions allowing anyone who may be adversely affected by a standard, a variance, or a ruling by the Occupational Safety and Health Review Board to challenge any of these by bringing an action for declaratory judgment, but the language is not clear about which court has jurisdiction.
- Page 22, Line 2—The language also does not explain who would be fined- is it the government entity, or its elected officials?