



**AMERICAN SOCIETY
OF SAFETY ENGINEERS**

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January 19, 2010

The Honorable Johnny H. Isakson
Ranking Minority Member
Subcommittee on Employment and Workplace Safety
Committee on Health, Education, Labor and Pensions
United States Senate
SH-133 Hart Senate Office Building
Washington, DC 20510

RE: Urging Inclusion of Public Sector OSH Coverage
Provisions in OSHA Reform Legislation

Dear Senator Isakson:

The American Society of Safety Engineers (ASSE) has always appreciated your thoughtful leadership on occupational safety and health issues. Because of your commitment to reasonable approaches that advance workplace safety and health, you are in a pivotal position to help achieve meaningful reform of the Occupational Safety and Health Act (OSH Act) if and when legislation to do so is considered in the United States Senate, whether through the Protecting America's Workers Act (PAW Act) (S. 1580) or substitute legislation that we understand is being considered.

We respectfully ask that you consider an OSH Act reform issue of long-standing importance to the 32,000 member safety, health and environmental (SH&E) professionals that ASSE represents – providing federal occupational

safety and health protections to the more than 8 million state and municipal workers now not included under the OSH Act. ASSE is deeply concerned about reports that the provision (Section 101) in the PAW Act that would achieve federal-level occupational safety and health protections for these workers may not be included in redrafted legislation due to the perceived political difficulty such a provision would face in the Senate. If this provision is dropped from reform legislation, it would be a significant lost opportunity to correct the failure of the OSH Act to treat all workers equally.

Giving all workers the minimal protections afforded by federal OSHA standards would be argument enough to support this provision. But ASSE urges you to consider the unmeasured burden that taxpayers are bearing because the states in which they live do not adequately protect workers. This nation's best employers are committed to workplace safety and health at levels far above the minimal levels of OSHA. They do so not only because it is the right thing to do for their employees but also because it is a prudent, cost-effective business practice. Most employers in this nation understand that a relatively small investment in workplace safety and health pays off with reduced costs for liability insurance, workers compensation, worker lost-time and overall productivity. Both OSHA (<http://www.osha.gov/dcsp/products/topics/businesscase/benefits.html>) and ASSE (http://www.asse.org/practicespecialties/bosc/bosc_formal.php) have documented the business community's acceptance of this investment value.

ASSE understands the difficulty Congress faces in asking states to do something they may not have chosen themselves to do, no matter how valuable a measure might be to them. But, as the resources on these websites show, what Congress would be asking in this instance is for states and municipalities to put into place the common business practice of managing their operational risks in a way that will allow them to achieve the same cost savings that private sector employers widely achieve. Citizens of those states should expect no less than the best business practices from government at all levels. Especially in difficult economic times, state and local government should be required to assess fully the risk their operations are facing and find ways to control those risks. Ensuring workplace safety and health of their employees will cause them to do so.

As much as we would like to think that states are moving in this direction on their own as private sector employers have, they are not. Only one state in recent years, Illinois, has taken steps to establish a federally-approved state plan for public sector workers, but Illinois already had in place a program to protect workers. Efforts to achieve such coverage at the state level are extremely difficult, as ASSE's members in Florida know first-hand. Introduction of ASSE-championed bills in Florida that

would simply require the state's public sector employers to meet federal standards without an enforcement mechanism took three years to be introduced.

This effort came after the U.S. Chemical Safety and Hazard Investigation Board's (CSB) investigation (<http://www.csb.gov/newsroom/detail.aspx?nid=198>) of a 2006 explosion at a Daytona Beach municipal water treatment facility that took the lives of two municipal workers. CSB found that Florida's lack of OSH coverage for its public sector workers contributed to those deaths. In response to that finding, our Florida members led ASSE to provide the resources needed to help pass legislation establishing a task force charged with determining how to best protect Florida's workers.

In 2009, ASSE led the effort to introduce the task force recommendations as legislation, which passed the Florida House but was not heard in the Senate due to the Legislature's attention to the state's budget problems. At this pace, achieving full enforcement of federal OSH standards in the 25 states that do not require that federal standards be met could take decades and is beyond the resources of stakeholders like ASSE. Our experience tells us the only practical solution to this lapse in the OSH Act is a federal solution. Whether that is Section 101 of the current PAW Act, or some other approach that incentivizes states to protect their workers, ASSE urges you to use your leadership to help find a way to achieve universal worker occupational safety and health protections.

Thank you for your attention to our concern. As always, ASSE and our members stand ready to work with you to advance occupational safety and health in ways that reflect the best practices of our members working closely with their employers. Achieving meaningful public sector worker safety and health protections is one more way we can work together to benefit workers, their employers and the American people who deserve to be served by this good business practice.

Sincerely,

C. Christopher Patton, CSP
President