AN ACT relative to the application of federal Occupational Safety and Health Act standards to public employers.


COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill requires public employers to provide employees with at least the level of protection provided under the federal Occupational Safety and Health Act, requires the labor commissioner to adopt rules regarding such protections, and establishes an occupational safety and health advisory board.

Explanation: Matter added to current law appears in **bold italics**. Matter removed from current law appears [in brackets and struckthrough]. Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
AN ACT relative to the application of federal Occupational Safety and Health Act standards to public employers.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1  New Subdivision; Safety and Health of Employees; Adoption of Occupational Safety and Health Standards; Advisory Board Established. Amend RSA 277 by inserting after section 38 the following new subdivision:

   Occupational Safety and Health Standards

   277:39 Adoption of Occupational Safety and Health Standards.

   I. Each employer, as defined in RSA 277:1-b, II, shall provide employees, as defined in RSA 277:1-b, I, at least the level of protection provided under the federal Occupational Safety and Health Act of 1970, 29 U.S.C. section 651, et seq., including standards and the provision of the general duty clause in 29 U.S.C. section 654.

   II. The labor commissioner, in consultation with the advisory board established in RSA 277:40, shall adopt rules under RSA 541-A relative to the protections required under this section.

277:40 Occupational Safety and Health Advisory Board Established.

   I. There is established an occupational safety and health advisory board.

   II.(a) The advisory board shall consist of 9 members, appointed by the governor. Of the appointed members, 3 shall represent employers, 3 shall represent employees, one shall represent an insurance company licensed to insure workers’ compensation within the state, and 2 shall represent the public. Of the 3 employer members, one shall represent state agencies, one shall represent counties within the state, and one shall represent municipalities within the state. Of the 3 employee members, one shall represent state employees, one shall represent school employees, and one shall represent municipal employees.

   (b) The term of office for the appointed members shall be 4 years. However, in the first appointment, 3 members shall be appointed for a term of 2 years, 3 members shall be appointed for a term of 3 years, and 3 members shall be appointed for a term of 4 years. Each member shall hold office until a successor is duly appointed and qualified. Any vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

   (c) The members of the advisory board shall biennially elect a chairperson from among the members. The first meeting of the advisory board shall be called by the member appointed to represent state agencies. The first meeting of the advisory board shall be held within 45 days of the effective date of this section. Five members of the advisory board shall constitute a quorum.

III. The advisory board shall:
(a) Evaluate injury and illness data, recommend training and implementation of safety and health measures, monitor the effectiveness of safety and health programs, and determine where additional resources are needed to protect the safety and health of public employees.

(b) Consult with the labor commissioner on the adoption of rules under RSA 277:39 and the submission of a state plan for occupational safety and health standards to the United States Secretary of Labor pursuant to 29 U.S.C. section 667.

IV. Beginning November 1, 2020, and each November 1 thereafter, the advisory board shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library.

2 Effective Date. This act shall take effect 60 days after its passage.
AN ACT relative to the application of federal Occupational Safety and Health Act standards to public employers.

FISCAL IMPACT: [ X ] State [ X ] County [ X ] Local [ ] None

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**Funding Source:** [ X ] General [ ] Education [ X ] Highway [ X ] Other - Various

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**METHODOLOGY:**

This bill requires public employers to provide employees with at least the level of protection provided under the federal Occupational Safety and Health Act, requires the labor commissioner to adopt rules regarding such procedures, and establishes an occupational safety and health advisory board. The Department of Labor does not anticipate the proposed legislation would alter county and local revenues. The bill would result in an indeterminable increase in state matching funds through receipt of federal funds for operation of the OSHA state plan. Under federal OSHA regulations, a state plan partner is entitled to submit a request for federal funding in furtherance of carrying out the plan. The Department assumes roughly 50% of the costs of carrying out the state plan may be eligible for reimbursement. The Department has deemed this amount "indeterminable" because the cost of a state plan and the actual federal reimbursement rate are unknown at this time. Much depends upon the formulation of an OSHA State Plan that would be acceptable to the US Secretary of Labor. Since a plan has not yet been created or accepted, the costs cannot be credibly quantified. The Department indicates, that as a recipient
of federal funds, the Department would also incur additional costs. Presently the Department receives no federal funding; upon receiving federal funds the Department would have to take on additional obligations in order to be compliant with federal guidelines concerning the receipt of federal dollars. The Department assumes it would need additional staff to undertake operation of an OSHA state plan. It is unclear at this time what additional staff would be needed and any staffing plan would be developed in conjunction with development and submission of the state plan to OSHA.

Additional state expenditures may result from the requirement to enhance safeguards and safety measures in order to meet heightened OSHA requirements. The Department notes, there has been no in-depth analysis of gaps between existing state safety requirements and the OSHA standard. To the extent OSHA standards would require enhancements, it is possible that such enhancements could increase state expenditures. This increase in costs would also occur at the county and local levels. The Department does not currently possess an inventory of the full safety status of each municipality, school district, or county, nor the gaps between that status and OSHA standards. For this reason it is not possible to measure the potential cost associated with bringing each municipality, school district, and county to acceptable OSHA safety levels.

AGENCIES CONTACTED:
Department of Labor