PROTECTING PUBLIC WORKERS NOT COVERED BY OSHA

By Luz S. Marín and Randy Milliron

OSHA does not extend jurisdiction over state and local government employees unless they work in a state with an OSHA-approved state plan. In many public sector workplaces, EHS protections rely heavily on various elements.

These elements can include internal governance structures, leadership commitment and voluntary adoption of consensus standards rather than enforceable regulatory oversight. As a result, a substantial portion of the U.S. workforce remains outside comprehensive workplace safety and health protections, due to either explicit statutory exclusions or gaps in practical implementation (Michaels & Barab, 2020).

Public sector employees (those employed by federal, state, territorial, municipal or county government entities) face inconsistent regulatory coverage (U.S. Department of Labor, 2011). The Occupational Safety and Health Act (OSH Act, 1970) explicitly excludes federal OSHA authority over state and local government workers. However, the Act authorizes states and territories to establish OSHA-approved plans that may extend EHS protection to these employees. Across the United States, this dual regulatory framework has produced a fragmented, jurisdiction-dependent system of worker protections. As of the publication of this article, 22 states and territories operate OSHA-approved state plans that provide coverage for both private-sector employees and state and local government workers. An additional six states and one U.S. territory (the Virgin Islands) maintain OSHA-approved state plans that cover state and local government employees only (OSHA, 2022). Massachusetts represents the most recent addition to this framework, after having received OSHA state plan approval in August 2022.

Recent fatal incidents involving public sector employees draw attention to persistent gaps within EHS protections (Witt et al., 2018). In multiple states, public employees performing routine yet hazardous tasks have suffered preventable fatal injuries while on duty. Examples of public sector employee fatalities include a municipal worker in West Virginia who was killed when a trench collapsed during a routine sewer tap installation, burying the worker due to the absence of protective trench systems (Roth & Bentley, 2025). A utility employee in Kansas was found fatally injured at the city's water tower (Grant, 2025). In Texas, a municipal worker suffered fatal injuries during a utility leak repair (Leggett, 2025), and in Louisiana, a public works employee was killed in a vehicle-related incident while performing roadway operations (KALB Digital Team, 2025).

Although these incidents occurred across different regions and job classifications, they share a common regulatory context. Each fatality involved public sector workers who were excluded from federal OSHA coverage. Preventable fatalities such as these may occur without independent investigation, enforceable corrective actions or accountability mechanisms that are equivalent to those required in the private sector. Surveillance data further demonstrates the magnitude of this disparity (Barab, 2025). In 2023, the public sector occupational injury rate reached 4.3 per 100 workers, 89% higher than that of the private sector (U.S. Bureau of Labor Statistics, 2025). According to U.S. Bureau of Labor Statistics data from 2024, jobs classified as public administration (NAICS 92) saw a rate of 6.4 for total recordable cases and 3.1 for cases with days away from work, job restriction or transfer (U.S. Bureau of Labor Statistics, 2025).

STRATEGIES TO STRENGTHEN PUBLIC SECTOR SAFETY

- **Build accountability.** Establish measurable safety expectations from frontline supervisors through executive leadership, with safety performance tied to evaluations, KPIs and organizational consequences.
- **Create internal enforcement.** Use tools such as workers' compensation incentives, safety inspections, transparent investigations and performance-based consequences to drive hazard correction when external OSHA enforcement does not apply.
- **Invest in safety expertise.** Assign credentialed safety professionals dedicated to managing workplace risk rather than relying solely on collateral-duty personnel.
- **Integrate safety into management.** Incorporate EHS considerations into budgeting, procurement, strategic planning, daily operations and performance management—not as a stand-alone function.
- **Strengthen worker participation and reporting.** Provide nonpunitive channels for employees to report hazards and near misses, and empower safety committees to identify problems and develop solutions without fear of retaliation.
- **Turn incidents into learning.** Provide role-specific, ongoing training so workers can recognize hazards, and systematically track injuries, near misses, hazards and successful interventions to help identify trends and improve prevention.

Luz S. Marín

Luz S. Marín, Sc.D., CSP, is a professor in the Department of Safety Sciences and Environmental Engineering at Indiana University of Pennsylvania. She holds an Sc.D. in Occupational Ergonomics and Safety and an M.S. in Work Environment from the University of Massachusetts Lowell, as well as a B.S. in Chemical Engineering from the National University of Colombia. Marín is a member of ASSP's Western Pennsylvania Chapter, the Ergonomics Practice Specialty, and the Black Safety Professionals and Hispanic Safety Professionals common interest groups.

Randy Milliron

Randy Milliron, SMP, EMR, is a safety manager for a municipality in northeast Wyoming. He earned an A.A.S. in Mining Technology from Gillette College. Milliron is a member of ASSP's International Chapter, the Women in Safety Excellence Common Interest Group, and the Ergonomics, Healthcare, Management, Public Sector, Risk Management, Training and Communications, and Utilities practice specialties.

Nationally, hazardous working conditions contribute to approximately 140,000 worker deaths annually, with thousands of these fatalities attributed to acute traumatic injuries and more than 100,000 to occupational diseases (Reindel et al., 2025). These worsening patterns underscore the disproportionate risks that public sector employees face.

Key Issue Collaboration Session

During ASSP's Safety 2025 conference, representatives from the Society's Public Sector Safety Practice Specialty and the Hispanic Safety Professionals Common Interest Group facilitated a key issue collaboration session (KICS) to examine coverage gaps between public- and private-sector workers, specific public sector worker needs, and potential solutions to enhance safety for public sector employees.

Twenty-three safety professionals drawn from state and local government employers, academia, consulting firms and insurance companies attended the session. Participants were organized into five small groups of four to five members each. For discussion and subsequent reporting, each group was assigned one to two specific questions. The questions varied by group and addressed different aspects of public sector safety, including the following:

- How does the lack of OSHA coverage affect safety culture within state and local government employers?
- What innovative approaches have successfully improved safety outcomes for public workers?
- How does underreporting affect our understanding of safety and health risks among government employees?
- How can we ensure equitable access to workplace protections for all public workers, regardless of their role or state?
- What should be the top priorities in the next 5 years to improve public workers' safety and health conditions?

The findings from the KICS session are organized thematically to present participants' identification of key challenges, documentation of successful approaches, and recommendations for immediate and longer-term actions. These findings reflect practitioner perspectives shared during facilitated small-group discussions and are not intended as research conclusions.

To facilitate the session, the authors structured discussions, guided dialogue, and synthesized participant responses. As a result, the findings revealed participant-contributed perspectives and experiences. The facilitators' role was to document and organize these contributions; however, presentation of findings does not constitute endorsement of any specific claims or recommendations by the authors.

Impact of OSHA Coverage Gaps on Safety Culture

Participants identified how lack of OSHA coverage undermines safety culture by fostering an environment of worker complacency and diminished organizational accountability. The specific impacts described in the following sections were documented.

Erosion of Accountability & Leadership Responsibility

Without a formal enforcement mechanism, there is often no accountability up the chain of command. As a result, leaders such as mayors and city managers are rarely held responsible for preventable workplace events. Participants noted that in many jurisdictions without coverage, no formal rules exist on how safety is managed, leading to an inconsistent environment that results in environments where a coherent safety culture often fails to develop.

Reactive Rather Than Proactive Safety Management

In the public sector, safety efforts are typically reactive, only addressing hazards after a worker is injured or killed, rather than proactively identifying risks before they cause incidents. This reactive posture may unintentionally grow in the absence of external pressure to maintain continuous hazard surveillance and prevention systems.

Cost-Driven Negligence

In states without OSHA coverage, investigations into public sector deaths highlight a culture of negligence in which management dismisses safety concerns and withholds essential resources due to cost considerations. Without regulatory consequences, financial constraints are prioritized over worker protection.

Perverse Incentives & Underreporting

The lack of oversight creates incentives for government agencies to avoid reporting hazards in order to keep insurance premiums low, which obscures the extent of workplace danger. Participants emphasized that this underreporting problem is compounded by:

- lack of education and training that results in less reporting because workers cannot report what they do not recognize as hazardous
- poor safety culture and perverse incentives that actively discourage reporting
- absence of data for trend analysis, meaning authorities only see "the tip of the iceberg"
- no systematic reporting of positive outcomes and effective interventions (e.g., successful abatement methods), preventing organizational learning and knowledge sharing

In general, participants stated that this lack of transparency means that authorities only see the "tip of the iceberg,"—infrequent but severe to fatal incidents. Thousands of near misses and local safety innovations, which can help identify gaps in the work organization or methods, are never shared or tracked.

Worker Frustration & Cultural Dissonance

Employees who enter the public sector from OSHA-regulated private industries often feel frustrated and alienated because their new colleagues may not follow basic safety procedures such as wearing chainsaw chaps or safety glasses. This cultural dissonance highlights the differential safety expectations and norms that regulatory gaps can create.

Approaches to Improving Safety Performance

After identifying these challenges, participants discussed approaches that have been successful in their organizations. Despite regulatory limitations, some public sector entities have implemented innovative strategies that have improved safety.

Participants shared successful approaches at the organizational level (Table 1). One example illustrates how workers' compensation premium structures can create layered accountability mechanisms. One state-level model integrates workers' compensation premium structures (offering up to 30% combined discounts for safety performance, drug and alcohol programs, and consultation engagement) with annual inspections conducted by former OSHA compliance officers who issue citations without fines. This creates financial accountability that drives hazard correction without regulatory enforcement authority. This example demonstrates how public sector organizations can construct internal enforcement mechanisms by combining insurance incentives, professional safety expertise and voluntary consultation programs into comprehensive accountability systems.

Recommendations for System-Level Improvement

Participants identified seven strategic priorities for improving public sector safety and ensuring equitable access to workplace protections for all workers, regardless of role or jurisdiction.

Establish comprehensive accountability frameworks. Develop measurable accountability structures extending from frontline supervisors to executive leadership, ensuring that safety performance has consequences at every organizational level. This includes board-level engagement and city manager accountability, recognition and reward systems integrated into employee evaluations and senior-level KPIs, and financial accountability through insurance metrics such as experience modification rate.

Implement effective enforcement mechanisms. Create internal enforcement systems with meaningful consequences for safety violations,

TABLE 1
APPROACHES TO PUBLIC SECTOR SAFETY

Approach	Description	Key benefits	Implementation examples
Leadership visibility and safety communications	Formal safety statements from organizational leadership and regular safety communications	Establishes clear expectations, signals leadership commitment, maintains safety awareness	Weekly safety meetings (in-person or video), safety messages from mayor or city manager
Geographic information systems for incident mapping	Mapping injuries and incidents geographically to identify patterns	Identifies high-risk locations, enables targeted interventions, visualizes trends	Incident heat maps by department, location-based risk assessment, resource allocation
Standard internal training for safety	Formal internal training programs with designated trainers and recognition	Creates qualified safety champions, ensures consistent training, provides formal credentials	Chainsaw operation, herbicide application, forklift certification, traffic control procedures
Cross-departmental joint training	Joint training sessions between different units or divisions for shared hazards	Ensures consistent procedures, enables mutual support, builds cross-functional competency	Water and fire departments for confined space entry, multi-department emergency response
Telematics and incident location tracking	Vehicle tracking systems that identify incident locations and high-risk routes	Identifies dangerous routes and intersections, enables targeted driver training, supports route modification	Fleet telematics with incident geotagging, route risk analysis, driver behavior monitoring
Workers' compensation (WC) premium incentive structures	Multitiered discount programs linking WC premiums to safety performance	Creates financial accountability without regulatory enforcement; leverages existing WC systems; provides measurable return on investment	State programs offering 30% combined discounts for loss ratio maintenance and safety committees (10%), drug and alcohol testing programs (10%), consultation participation (10%); inspections by former OSHA officers

Note. These approaches were identified by KICS participants as successful to improve safety outcomes in their public sector organizations.

even without external regulatory oversight. This includes leveraging insurance costs to create financial accountability, performance-based consequences for leaders and transparent investigation procedures that ensure safety failures have organizational impact.

Invest in dedicated safety professionals. Transition from collateral-duty assignments to hiring credentialed safety professionals whose sole responsibility is managing workplace risk. This includes advocacy for dedicated safety roles at all organizational levels, expanding the knowledge base of all personnel, integrating safety and risk management into recruitment and retention strategies, and utilizing available resources.

Integrate safety into all management systems. Embed occupational safety and health into procurement, budgeting, strategic planning, operations and performance management rather than treating it as a standalone function.

Expand meaningful worker participation. Establish genuine forums for hazard identification and problem-solving through robust safety committees that go beyond compliance checkboxes and enable worker voice without retaliation.

Enhance training and education systems. Develop comprehensive, role-specific safety training with formal recognition and ongoing education requirements to ensure that all workers can recognize and report hazards.

Improve incident reporting and learning systems. Create nonpunitive reporting that captures injuries, near misses, hazards and successful interventions to enable data-driven decision-making and organizational learning.

Taken together, these recommendations highlight the need for an integrated, systems-based EHS approach tailored to public sector realities. Sustainable improvement depends on embedding safety within organizational management systems through clear leadership accountability, defined roles and responsibilities, investment in professional safety capacity, continuous performance monitoring, and mechanisms that elevate worker voice without fear of retaliation (Figure 1). Without external regulatory enforcement, public sector organizations must cultivate internal drivers of safety performance through visible leadership commitment, integrated management systems, and organizational cultures that value learning from both successes and failures.

However, rather than adopting generic safety templates, EHS management systems must be adapted to reflect unique contextual factors, specific hazards of public services (e.g., emergency response, public utilities, healthcare, education, municipal operations), workforce characteristics (e.g., unionized environments, civil service structures, diverse employment classifications), budgetary constraints, public accountability requirements, political cycles and elected leadership transitions, and the tension between public service missions and resource limitations.

Research indicates that organizations voluntarily adopting structured EHS management system principles (e.g., leadership commitment, systems integration, organizational learning, contextual adaptation) tend to achieve better safety outcomes than those relying solely on minimal legal requirements (Johanes et al., 2023; Karakhan et al., 2021; Ramos et al., 2020; Uhrenholdt Madsen et al., 2020). Figure 1 connects participant-identified priorities with evidence-based principles documented in the scholarly literature.

FIGURE 1
PARTICIPANT-IDENTIFIED PRIORITIES & EVIDENCE-BASED PRINCIPLES



Conclusion

The KICS provided valuable practitioner-driven insights. Attendees valued the KICS format for facilitating open dialogue and collaborative problem-solving in ways that traditional conference sessions may not achieve, offering a pathway for participants to collaborate and bridge best practices. **PSJ**

References

Barab, J. (2025). Who cares about the lives of public employees? Confined Space. https://jordanbarab.com/confinedspace/2025/08/19/who-cares-about-the-lives-of-public-employees

Grant, K. (2025, July 23). Scott City employee dies while on the job, investigation underway. KWCH. www.kwch.com/2025/07/23/scott-city-employee-dies-while-job-investigation-underway

Johanes, M., Mark, M. & Steven, J. (2023). A global review of implementation of occupational safety and health management systems for the period 1970-2020. *International Journal of Occupational Safety and Ergonomics, 29*(2), 821-836. https://doi.org/10.1080/10803548.2022.2083811

KALB Digital Team. (2025, July 25). Alexandria city employee killed in crash. www.kalb.com/2025/07/25/alexandria-city-employee-killed-crash

Karakhan, A.A., Nnaji, C.A. & Jin, Z. (2021). How technology can improve OSH management in construction. *Professional Safety, 66*(12), 18-26.

Leggett, C. (2025, July 3). Tragic loss as city worker Robert Saucedo dies in heartbreaking repair accident. KTXS. https://ktxs.com/news/local/tragic-loss-as-city-worker-robert-saucedo-dies-in-heartbreaking-repair-accident

Michaels, D. & Barab, J. (2020). The Occupational Safety and Health Administration at 50: Protecting workers in a changing economy. *American Journal of Public Health, 110*(5), 631-635. https://doi.org/10.2105/ajph.2020.305597

OSH Act of 1970. Public Law 91-596 84 Stat. 1590 (1970). www.osha.gov/laws-regs/oshact/completeoshact

OSHA. (2022). State plans. www.osha.gov/stateplans

Ramos, D., Afonso, P. & Rodrigues, M.A. (2020). Integrated management systems as a key facilitator of occupational health and safety risk management: A case study in a medium sized waste management firm. *Journal of Cleaner Production, 262*, 121346. https://doi.org/10.1016/j.jclepro.2020.121346

Reindel, R.L., Shrestha, A. & Arberry, C. (2025). Death on the job: The toll of neglect, 2025. AFL-CIO. https://aflcio.org/reports/dotj-2025

Roth, C. & Bentley, K. (2025, Aug. 19). WSAZ investigates: Unprotected on the job. www.wsaz.com/2025/08/19/wsaz-investigates-unprotected-workplace

U.S. Bureau of Labor Statistics. (2025). State occupational injuries, illnesses and fatalities. www.bls.gov/iif/state-data.htm

U.S. Department of Labor. (2011). Fact sheet #7: State and local governments under the Fair Labor Standards Act (FLSA). www.dol.gov/agencies/whd/fact-sheets/7-flsa-state-local-government

Uhrenholdt Madsen, C., Kirkegaard, M.L., Dyreborg, J. & Hasle, P. (2020). Making occupational health and safety management systems 'work': A realist review of the OHSAS 18001 standard. *Safety Science, 129*, 104843. https://doi.org/10.1016/j.ssci.2020.104843

Witt, W.S., Bunn, T.L. & Slavova, S. (2018). Workers compensation-reported injuries among security and law enforcement personnel in the private versus public sectors. *Injury Epidemiology, 5*(1), 27. https://doi.org/10.1186/s40621-018-0156-9

Cite this article

Marin, L.S. & Milliron, R. (2026, Nov.). Protecting public workers not covered by OSHA. *Professional Safety, 71*(11), 33-37.

Statement of Ownership, Management and Circulation *(PS Form 3526, July 2014)*

1) Publication title: *PSJ*. 2) Publication number: 283800. 3) Filing date: 9/29/2026. 4) Issue frequency: Monthly except January and July. 5) Number of issues published annually: 10. 6) Annual subscription price: $60. 7) Complete mailing address of known office of publication: 520 N. Northwest Highway, Park Ridge, Cook County, IL 60068-2538; Contact person: Sarah Astra, (847) 768-3414. 8) Complete mailing address of headquarters or general business office of publisher: Same as 7. 9) Full names and complete mailing addresses of publisher, editor and managing editor: Publisher, American Society of Safety Professionals, same as 7; Editor, Sarah Astra, same as 7; Managing Editor, Dojna Shearer, same as 7. 10) Owner: American Society of Safety Professionals, same as 7. 11) Known bondholders, mortgagees and other security holders owning or holding 1 percent or more of total amount of bonds, mortgages or other securities: None. 12) Tax status: The purpose, function and nonprofit status of this organization and the exempt status for federal income tax purposes has not changed during preceding 12 months. 13) Name of publication: Same as 1. 14) Issue date for circulation data below: September 2026.

15) Extent and nature of circulation	Average no. copies each issue during preceding 12 months	No. copies of single issue published nearest to filing date
a) Total number of copies	20,572	21,829
b) Paid circulation		
(1) mailed outside-county paid subscriptions stated on PS Form 3541	19,107	20,220
(2) mailed in-county paid subscriptions stated on PS Form 3541	0	0
(3) outside the mails including sales through dealers and carriers, street vendors, counter sales and other paid distribution outside USPS	0	0
(4) by other classes of mail through the USPS	0	0
c) Total paid distribution	19,107	20,220
d) Free or nominal rate distribution		
(1) outside-county copies included on PS Form 3541	0	0
(2) in-county copies included on PS Form 3541	0	0
(3) copies mailed at other classes through the USPS	0	0
(4) outside the mail	0	0
e) Total free or nominal rate distribution	0	0
f) Total distribution	19,107	20,220
g) Copies not distributed	1,465	1,609
h) Total	20,572	21,829
i) Percent paid	100.00	100.00
16) Electronic copy circulation		
a) Paid electronic copies	10,745	11,433
b) Total paid print copies + paid electronic copies	29,852	31,653
c) Total print distribution + paid electronic copies	29,852	31,653
d) Percent paid (both print and electronic copies)	100.00	100.00

17) Statement of Ownership will be printed in the November 2026 issue of this publication. 18) Signature and title of editor, publisher, business manager or owner: (signed) Sarah Astra, 9/29/2026. I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).