

DEPARTMENT OF INDUSTRIAL RELATIONS

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May 9, 2023

Mr. Joe Stephenshaw, Director
Department of Finance
915 L Street
Sacramento, CA 95814

Honorable Nancy Skinner, Chair
Joint Legislative Budget Committee
1020 N Street, Room 553
Sacramento, CA 95814
Attention: Hans Hemann

Subject: Labor Enforcement Task Force Report to the Legislature

Pursuant to the Budget Act of 2012 (Assembly Bill 1464, Chapter 21, Statutes of 2012), the Department of Industrial Relations (DIR) is pleased to report to the Director of Finance and the Joint Legislative Budget Committee on the accomplishments of the Labor Enforcement Task Force (LETF). This report covers activity from 2012 through 2022 and is also available on the [LETF webpage](#).

The LETF mission is to combat the underground economy in order to ensure safe working conditions and proper payment of wages for workers; to create an environment in which legitimate businesses can thrive; and to support the collection of all California taxes, fees, and penalties due from employers. DIR coordinates with the Labor Commissioner's Office, Cal/OSHA, the Employment Development Department, the Contractors State License Board, and other partner agencies to identify bad actors, share information, and conduct joint enforcement. The LETF teams target noncompliant employers for inspection using referrals and data-matching techniques. Each agency on its own does not have access to the full range of data and other information that the LETF teams can access through cooperation.

Protecting all workers from wage theft, unsafe working conditions, and other labor law violations is more important than ever in California. LETF continues to adapt and respond effectively to the evolving workforce and business settings. To this end, in 2020, LETF teams were redirected from their regular operations to participate in the COVID-19 task force created by the Governor to provide education and enforcement efforts related to employers' COVID-19 requirements. Additionally, LETF is currently overseeing a strategic enforcement initiative focused on publicly funded residential housing projects. As construction work is underway statewide to rapidly create housing for people experiencing or at-risk of homelessness, LETF is leading efforts to protect the health & safety and economic wellbeing of the employees that are performing this critical work at the job sites. Collaboration across agencies is more important than ever to address the numerous and complex labor related issues. We look forward to

continuing our efforts aimed at leveling the playing field for compliant business owners and protecting all wage earners in California.

Sincerely,

Katrina S. Hagen
Director, California Department of Industrial Relations

cc: Joint Legislative Budget Committee Members:

Senator Nancy Skinner (Chair)
Senator Josh Becker
Senator Brian Dahle
Senator María Elena Durazo
Senator Susan Talamantes Eggman
Senator Roger Niello
Senator Steve Padilla
Senator Richard Roth

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Report to the Legislature

May 2023

A. TARGETING METHODS: VALUE ADDED BY THE LETF.....	2
B. JOINT ENFORCEMENT ACTIVITY: VALUE ADDED BY THE LETF	3
Table 1. Cal/OSHA Results.....	4
Table 2. DLSE Results	5
Table 3. EDD Results.....	5
Table 4. CSLB Results.....	6
Table 5. BAR Results.....	6
Table 6. CDTFA Results.....	6
C. EFFECTS OF COVID-19 EMERGENCY.....	6
D. EDUCATION AND OUTREACH	7
E. RECOMMENDED CHANGES TO STATUTES.....	7
F. STRATEGIC ENFORCEMENT OF PUBLIC WORKS PROJECTS.....	7
G. OBJECTIVES FOR 2023	8

The mission of the Labor Enforcement Task Force (LETF) is to combat the underground economy in order to ensure safe working conditions and proper payment of wages for workers, create an environment in which legitimate businesses can thrive, and support the collection of all California taxes, fees, and penalties due from employers. Task force members include the following:

- Labor & Workforce Development Agency (LWDA)
- Department of Industrial Relations (DIR), including the Division of Labor Standards Enforcement (DLSE) and the Division of Occupational Safety and Health (Cal/OSHA)
- Employment Development Department (EDD)
- Contractors State License Board (CSLB)
- California Department of Insurance (CDI)
- California Department of Tax and Fee Administration (CDTFA)
- Bureau of Automotive Repair (BAR)
- Department of Alcoholic Beverage Control (ABC)
- State Attorney General and district attorneys throughout California

Established in January 2012, LETF is administered by DIR. DIR developed executive and strategic operations teams to operate, evaluate, and monitor the program. This report covers activities since LETF's inception.

A. Targeting Methods: Value Added by the LETF

LETF is tasked with ensuring efficacy, resource maximization, and the avoidance of overlap in agency enforcement. Targeted inspections are the most effective approach for meeting these central objectives. To accurately target noncompliant businesses, DIR continually refines its methods, which are both data driven (proactive) and complaint driven (responsive).

LETF teams comprise staff from the member agencies listed above, customized for inspections in each industry. On its own, each agency does not have access to the full range of data and other information that the LETF teams can access collectively.

- DLSE uses wage claim data, Bureau of Field Enforcement (BOFE) data, and has contacts with local district attorneys and community-based organizations.
- Cal/OSHA uses their own inspection and permit data, as well as using contacts with the local Agricultural Commissioner's office, the local US Department of Agriculture's office, and community-based organizations.
- EDD uses complaint data and their Automated Collection Enhancement System (ACES) that includes multiple databases, including tax and DMV records. Their data on taxpayers are protected by federal privacy laws.
- CSLB uses complaint data, licensing data, and contacts with industry partners.

In addition, LETF receives complaints and tips submitted directly by the public to identify potential targets. DIR has issued news releases and targeted email notifications in order to proactively solicit

complaints and tips. This [news release](#) is an example of a proactive outreach effort to solicit public engagement and submission of complaints for public works projects. The public may report through the LETF hotline, the LETF online form, or the LETF email address, as provided online on the [Labor Enforcement Task Force webpage](#).

LETF targeting protocol involves a multiphase process that all inspectors follow. Teams identify potential targets and conduct research to develop a business profile. Lists of potential targets are sent to EDD for screening to learn if the employer is registered with EDD and to determine how many employees the employer has reported. The target lists are screened through the Workers' Compensation Insurance Rating Bureau (WCIRB) to determine if the employer is adequately insured. In addition, LETF screens business names using other agency databases to match on a variety of fields that may indicate areas of noncompliance. The results are added to the business profile and used to prioritize and prepare inspectors for joint enforcement action.

B. Joint Enforcement Activity: Value Added by the LETF

Working together with combined authority, LETF teams have access to a fuller range of enforcement tools than does each agency on its own:

- DLSE has the authority under Labor Code section 90 to access all places of employment. Other LETF partners do not have this full authority. DLSE may also issue stop orders requiring employers to cease illegal operations immediately.
- Cal/OSHA has the authority to issue citations for serious, willful, and repeat (SWR) violations. Cal/OSHA may also issue an order prohibiting use where a condition or practice exists that creates an imminent hazard to the safety and health of employees.
- EDD has authority under Section 1092 of the California Unemployment Insurance Code to require employers to provide records for inspection at any time during the employing unit's business hours.
- CSLB is able to suspend contractors' licenses until penalties issued by DLSE and state payroll taxes, penalties, and interest due to EDD are paid or formal arrangements have been made to pay off the liability due in installments. Penalties are far more likely to be paid promptly when the license is suspended until payment is made.

Joint enforcement has two key comparative advantages for the business community. First, because LETF inspection teams comprise members from multiple agencies, one LETF inspection has less impact on business operations than multiple separate inspections by the individual agencies. Second, when several agencies working together find egregious employer misconduct, the ensuing publicity has a deterrent effect that is much more powerful than that of a single agency's enforcement. This [news release](#) has details of the Labor Commissioner citing a construction company more than \$7.2 Million for wage theft violations as a result of an LETF inspection. Tables 1–6 show enforcement results by year for participating agencies.

Table 1. Cal/OSHA Results

	2012-2020	2021	Non-LETF 2021**	2022*	Non-LETF 2022 **	Total
Businesses Inspected	6,758	57	137	478	5	7,435
% Businesses Out of Compliance	87%	91%	66%	57%	60%	77%
Order Prohibiting Use (OPU)	182	1	0	0	0	183
Total Number of Violations	24,912	22	436	1,148	20	26,538
% of Total Violations That Were Serious	15%	0%	80%	17%	40%	37%
% of Programmed Inspections w/SWR Violations	44%	0%	22%	17%	40%	30%
Initial Assessment Amounts	\$24,042,133	\$4,705	\$1,394,167	\$853,192	\$29,780	\$26,323,977

*Totals for 2022 do not reflect information for 163 and 2 Non-LETF inspections that are still pending citation issuance. ** Starting in March 2020 LETF Cal/OSHA staff were redirected to perform Non-LETF inspections. These were mostly COVID-19 related inspections.

Table 2. DLSE Results

	2012-2020	2021	2022	Total
Businesses Inspected	6,858	33	154	7,045
Businesses Out of Compliance	3,572	22	69	3,663
% Businesses Out of Compliance	52%	67%	45%	51%
Number of Workers' Compensation Insurance Violations	2,704	14	28	2,746
Number of Child Labor Violations	107	0	8	115
Number of Deduction Statement Violations	2,066	12	10	2,088
Number of Minimum Wage Violations	266	3	2	271
Number of Overtime Violations	270	3	1	274
Number of Garment Violations	307	0	5	312
Number of Contractor's License (1021/1021.5) Violations	237	0	0	237
Number of Car Wash Registration Violations	160	2	28	190
Number of Rest Period Violations	30	0	0	30
Number of Meal Period Violations	30	1	0	31
Number of Split Shift Violations	36	0	0	36
Number of Misclassification Violations	3	0	0	3
Number of Unlicensed Farm Labor Contractor (1683) Violations	1	0	0	1
Total Number of Violations	6,217	68	120	6,405
Assessment Amounts	\$61,249,410	\$7,471,446	\$1,516,542	\$70,237,398

Table 3. EDD Results

	2012-2020	2021	2022	Total
Businesses Inspected	7,355	167	837	8,359
% of Audit Referrals*	61%	60%	35%	52%
Estimated Unreported Wages**	\$1,049,719,702	\$38,876,226	\$65,861,849	\$1,154,457,777
Estimated Unreported Employees	20,831	448	879	22,158
Completed Audits	3,063	228	243	3,534
Audit Liability Change	\$100,444,051	\$17,190,876	\$9,910,135	\$127,545,062

*Based on closed LETF cases. **Closed LETF leads.

Table 4. CSLB Results

	2012-2020*	2021	2022	Total
Businesses Inspected	3,310	87	250	3,647
% Businesses Out of Compliance**	38%	41%	42%	39%
Civil Penalties Assessed	\$1,763,400	\$26,250	\$119,000	\$1,908,650

*Totals for 2012 followed different methodology than totals for the other years, which both reflect joint inspection results when CSLB partnered with at least one other LETF enforcement partner.

**Includes violations for contracting without a license, contracting with an expired or suspended license, illegal advertising, and other violations.

Table 5. BAR Results

	2012-2020	2021	2022	Total
Businesses Inspected	833	27	120	980
# Businesses Out of Compliance	219	5	21	245
% Businesses Out of Compliance	26%	19%	18%	25%

*Includes both unlicensed businesses and businesses with delinquent licenses.

Table 6. CDTFA Results

	2012-2020	2021	2022	Total
Businesses Inspected	1,817	38	332	2,187
% Businesses Out of Compliance*	32%	18%	17%	29%

*Includes businesses operating without a seller's permit and leads generated by CDTFA.

C. Effects of COVID-19 Emergency

In March 2020, LETF inspections were postponed indefinitely due to the COVID-19 emergency and the statewide stay-at-home order issued by the State Public Health Officer on March 19, 2020. Therefore, LETF did not conduct joint inspections from April to December 2020 and conducted few inspections in March. However, during this period, DIR staff at DLSE and Cal/OSHA participated in the COVID-19 task force created by the Governor to provide education and enforcement efforts related to employers' COVID-19 requirements. In addition to these efforts, LETF staff in Cal/OSHA assisted Cal/OSHA district offices in performing heat illness and COVID-19 inspections. LETF staff in DLSE assisted with phone operations and remote audits. In August 2021 LETF resumed joint inspections on a limited scale, and gradually expanded operations on a monthly basis.

D. Education and Outreach

LETF uses multiple education and outreach methods to ensure that employers know their responsibilities and workers know their rights. LETF has designed and produced effective educational materials for workers and employers in coordination with other agencies. LETF produced the widely referenced employee handbook “All Workers Have Rights in California”, which is available in English, Spanish, Chinese, Korean, and Vietnamese, and covers topics such as minimum wages and overtime, rest and meal breaks, workplace safety and health, and benefits for those injured or unemployed. LETF has also produced fact sheets to help employers understand and follow labor, licensing, and payroll tax laws. The fact sheets have been designed for employers in specific industries, including agriculture, automotive, construction, garment, landscaping, and restaurants. Printable and mobile versions of these materials for workers and employers have been recently updated to reflect the minimum wage increases in 2023 and other important labor law updates. The mobile versions are readable on smartphones and other mobile devices. All the LETF educational materials are available on the LETF website under [Information for Workers and Employers](#).

The [LETF website](#) is available in English and Spanish. DIR publicizes LETF’s efforts and notable cases via speaking engagements, press releases, website features, and email alerts. The public can subscribe to get LETF email alerts at [Get Email Notices](#).

LETF representatives participate regularly in the Labor Commissioner’s Office Prevailing Wage Seminars. These educational seminars provide an overview of prevailing wage and apprenticeship standards compliance. LETF representatives provide updates of joint enforcement efforts focused on public works projects. This [webpage](#) shows details of upcoming seminars.

E. Recommended Changes to Statutes

Though LETF does not currently have any active plans for legislation, task force partners are continuously looking for ways to improve effectiveness and interagency collaboration.

F. Strategic Enforcement of Public Works Projects

Pursuant to Assembly Bill 175 (Chapter 255, 2021), the sum of \$30,000,000 was appropriated from the Labor and Workforce Development Fund for support of DIR for strategic enforcement focused on construction, alteration, and repair projects, subject to the provisions of Section 1785 of the Labor Code. The \$30 million provides enhanced strategic enforcement to target employers in the construction industry working on public works projects who are noncompliant with various labor laws. LETF is leading strategic enforcement efforts for this project. LETF has provided focused leadership to develop a proactive and reactive joint enforcement focus incorporating various strategies, including: interagency and cross divisional data sharing, on-site surveillance and reviewing of complaints submitted by stakeholders. One of the main focuses of this strategic enforcement effort is Homekey, a statewide effort to sustain and rapidly expand housing for persons experiencing homelessness or at risk of homelessness, and who are, thereby, inherently impacted by COVID-19 and other communicable diseases. LETF is currently implementing a strategic enforcement plan focused on Homekey Round 2

projects and other publicly funded residential housing projects. These efforts will promote a level playing field for contractors to bid and operate fairly on these publicly funded projects and will furthermore enhance the enforcement of labor laws to protect the health & safety and economic wellbeing of employees working on-site at the projects.

A portion of this funding has been allocated for a new Information Technology (IT) project to upgrade various DIR data systems and create a technical capability for data analytics. DIR has identified eight standalone databases that will be modernized and upgraded onto a single platform, these include Public Works, Apprenticeship, and Prevailing Wage databases. After these databases have been upgraded and unified, LETF will implement data analytics methods to use data more efficiently and for proactive strategic enforcement efforts.

G. Objectives for 2023

Objectives for 2023 include the following:

1. **Focus on strategic enforcement of public works projects.** As mentioned above, LETF is leading a strategic enforcement initiative focused on public works projects. LETF will oversee collaborative efforts with enforcement partners and other stakeholders to expand strategic enforcement of publicly funded residential housing projects. LETF will refine joint operational protocols, and combine resources in order to streamline interagency collaboration, focus on operators in the underground economy, and avoid duplication of efforts. Additionally, LETF will launch the initiative to automate and unify multiple DIR databases with the goal of using data more efficiently and enhancing strategic enforcement efforts.
2. **Strengthen and increase engagement with community partners.** Working with a wide range of community partners is essential for LETF to understand and combat the multifaceted nature of the underground economy. LETF aims to strengthen existing partnerships and develop new ones with community partners, such as worker advocates, employer groups, and union representatives.
3. **Promote focused outreach and education for workers and employers.** LETF will continue to work with partners to educate vulnerable workers about their rights and increase awareness about the widespread harmful effects of the underground economy. Additionally, LETF seeks to promote compliance by partnering with employer groups and educating employers in multiple industries on their responsibilities and on how to remain in compliance with labor laws.