

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
INDUSTRIAL WELFARE COMMISSION

Public Meeting

March 5, 2004

State Capitol
Senate Room 113
Sacramento, California

P A R T I C I P A N T S

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Industrial Welfare Commission

BILL DOMBROWSKI, Chair

DOUG BOSCO

TIMOTHY CREMINS

LESLEE GUARDINO

HAROLD ROSE

Staff

BRIDGET BANE, Executive Officer

DOUG McCONKIE, Analyst

MARGUERITE STRICKLIN, Legal Counsel

CYNTHIA JUDY, Hearing Reporter

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P R O C E E D I N G S

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(Time noted: 10:10 a.m.)

COMMISSIONER DOMBROWSKI: I'm going to call the meeting to order. Let the record show that all five commissioners are present.

The first order of business is consideration of and possible action on the Statement as to the Basis for amendments to Wage Order Number 5.

As the commissioners know, we received a letter this morning from the California Labor Federation stating that they had not had time to review it and have some concerns and have asked that we put that over to give them time to review and give us comments. If there is no objection, I would be happy to do that.

Anyone have a concern?

COMMISSIONER BOSCO: Well, I'd like to hear testimony as to, you know, what -- I mean, this is very fractious and it doesn't seem to me that there's going to be agreement between the parties on it. There hasn't been, all the way through. I mean, what -- I'd like to hear some testimony as to what the basis for --

COMMISSIONER DOMBROWSKI: Okay.

COMMISSIONER BOSCO: -- putting it over would be.

COMMISSIONER DOMBROWSKI: Peter?

1 MR. COOPER: Peter Cooper, California Labor
2 Federation.

3 We simply would like time to review it. We just
4 -- I have not seen it myself. I know that representatives
5 from SEIU received it last night. And it's simply not
6 enough time to look over the document. We need to have this
7 accurate for the record. And for those reasons, I think
8 it's an important issue and needs to have public scrutiny.
9 And we urge you to put it over for enough time to have
10 reasonable -- for us to have a reasonable chance at
11 reviewing it.

12 So, for those reasons, we'd urge you to put it
13 over today.

14 COMMISSIONER CREMINS: Yeah. I think, generally,
15 you're okay with the agreement, right? You're worried
16 about some of the content in the Statement of the Basis?

17 MR. COOPER: Yeah. We -- we're concerned with the
18 material in the Statement of the Basis. We know it's not
19 going to change the outcome of what -- what's already been
20 decided. But we think it should be clear -- clear, and we
21 should have a chance to have input on it.

22 MS. STRICKLIN: And I would --

23 COMMISSIONER DOMBROWSKI: Is your mike on?

24 MS. STRICKLIN: I would say that as the Commission
25 knows, the Statement as to the Basis is an explanation of

1 why the Commission did what it did. It's not a regulation.
2 It's not necessarily subject to public comment, although you
3 can receive public comment on it. And then, if that, in
4 your mind, changes, as a commission, why you chose to make
5 the amendment, then that would be helpful. Otherwise, it's
6 -- it will state what -- the reasons why you made the
7 amendment.

8 I don't know what comments people might have on
9 it, but it is not something that necessarily has to be put
10 out for public comment like a regulation, just so you know.

11 COMMISSIONER BOSCO: Can someone that hasn't read
12 it at some point comment in writing about it later on?

13 MS. STRICKLIN: Well, they certainly have every
14 opportunity to address the Commission in any way that they'd
15 like. But there's nothing like a minority report on the
16 Statement as to the Basis or something like that, no.

17 COMMISSIONER DOMBROWSKI: The point is that we
18 could take some time, give them time to get us comments, and
19 not change a word of the Statement as to the Basis, if we
20 chose.

21 MS. STRICKLIN: That's correct.

22 COMMISSIONER BOSCO: Yeah. But what I'm worried
23 about, isn't this an integral part of approving the action
24 that we took? In other words, the action that we took, does
25 it have a force and effect until we approve the Statement of

1 the Basis?

2 MS. STRICKLIN: Yes, it does. What the -- what
3 the Commission is required to do is to -- to publish a
4 Statement as to the Basis as to the reasons that it took the
5 action it did. It does not have to -- and that's -- that
6 does have to be published at some point, usually on the Web
7 site --

8 COMMISSIONER DOMBROWSKI: But our action is
9 already in effect.

10 MS. STRICKLIN: Yes.

11 COMMISSIONER BOSCO: Yeah. Well, that's fine.

12 COMMISSIONER DOMBROWSKI: Is that right?

13 MS. STRICKLIN: That's right.

14 MS. BANE: That's correct.

15 COMMISSIONER DOMBROWSKI: Okay.

16 COMMISSIONER BOSCO: I just didn't want to
17 continue --

18 COMMISSIONER DOMBROWSKI: Hold everything up?
19 Right, right.

20 MS. STRICKLIN: So it's up to you, what you want
21 to do.

22 COMMISSIONER BOSCO: I move that we put this over
23 until the next meeting.

24 COMMISSIONER DOMBROWSKI: Now, before you arrived,
25 we were having kind of a conversation -- let's get it on the

1 record -- that we were looking at dates and trying to do
2 this as relatively quickly as we could. And we are looking
3 at, I think, March 26th, where we know we could get a quorum
4 at least. So, I wanted to make a record -- is that too soon
5 or is that -- is that fine?

6 MS. BANE: That would be fine.

7 COMMISSIONER DOMBROWSKI: Peter, does that give
8 you guys enough? I assume that gives you plenty of time.

9 MR. COOPER: That would be fine.

10 COMMISSIONER DOMBROWSKI: Okay. All right.

11 COMMISSIONER ROSE: I'll second it.

12 COMMISSIONER DOMBROWSKI: Seconded.

13 All in favor, say "aye."

14 (Chorus of "ayes")

15 COMMISSIONER DOMBROWSKI: All opposed?

16 (No response)

17 COMMISSIONER DOMBROWSKI: That passes unanimously.
18 So, we'll put that over -- that Statement as to the Basis
19 over to March 26th and have a meeting, I guess, in
20 Sacramento.

21 MS. BANE: And, commissioners, for the record, I
22 have asked Mr. Cooper to get in any comments that he would
23 like to make over to me, and then I will forward them on to
24 Marguerite and -- and will also circulate them among the
25 commissioners.

1 COMMISSIONER DOMBROWSKI: Okay.

2 COMMISSIONER BOSCO: Could I ask one question that
3 really isn't totally in order? But I wondered if I could
4 ask Mr. Cooper, is there any move afoot now in the
5 legislature to resolve this problem along the lines that we
6 had hoped it would be? For instance, you --

7 MR. COOPER: No, not that -- not that I am aware
8 of. But as you are aware from our previous discussions,
9 that was one of our concerns, that there be a long-term
10 solution to this issue.

11 COMMISSIONER BOSCO: Right. But there's no
12 legislation now? You had come up with a plan for --

13 MR. COOPER: Right. Not --

14 COMMISSIONER BOSCO: -- regional centers.

15 MR. COOPER: I don't believe so. Not currently,
16 no.

17 COMMISSIONER DOMBROWSKI: All right. We'll go to
18 Item Number 2, consideration and action on Statement as to
19 the Basis for amendments to Wage Order Number 9.

20 Any public comment?

21 The other troublemaker.

22 MR. GUSMAN: Yeah, that's me.

23 (Laughter)

24 COMMISSIONER BOSCO: You haven't read it either,
25 eh?

1 MR. GUSMAN: Actually, I have.

2 Mr. Chairman -- Mr. Chairman, members of the
3 Commission, Shane Gusman, on behalf of the Teamsters, the
4 Amalgamated Transit Union, and the California Conference of
5 Machinists.

6 We have had a chance to review it, and we think it
7 adequately reflects what happened in this process, and we
8 support its adoption.

9 Thank you.

10 COMMISSIONER DOMBROWSKI: Thanks, Shane.

11 Any other comments?

12 Mr. Cooper.

13 MR. COOPER: Yes. The Labor Federation is also in
14 support of the adoption.

15 COMMISSIONER DOMBROWSKI: Okay.

16 Any comments from the commissioners?

17 (No response)

18 COMMISSIONER DOMBROWSKI: Do we have a motion for
19 adoption?

20 COMMISSIONER BOSCO: I move we adopt the Statement
21 as to the Basis.

22 COMMISSIONER CREMINS: Second.

23 COMMISSIONER DOMBROWSKI: Commissioner Bosco,
24 motion. Second by Commissioner Cremins.

25 All in favor, say "aye."

1 (Chorus of "ayes")

2 COMMISSIONER DOMBROWSKI: Any opposed?

3 (No response)

4 COMMISSIONER DOMBROWSKI: That passes unanimously.

5 Rather than hold everybody up, I want to go out of
6 order and ask for any other business to come up before we go
7 into closed session. Does anyone have any other business to
8 bring up? Any new business?

9 (No response)

10 COMMISSIONER DOMBROWSKI: Okay. Then we're going
11 to go to Item 3, closed session, just to give us an update
12 on litigation.

13 (Thereupon, a brief discussion was held off
14 the record.)

15 COMMISSIONER DOMBROWSKI: On the record.

16 MS. STRICKLIN: We just had a closed session,
17 during which I advised the Commission on two cases currently
18 in litigation: the first, National Ready Mix Concrete
19 versus DLSE, Art Lujan, and the Industrial Welfare
20 Commission, that's in Orange County; and the second one,
21 Westside Concrete, which is currently in the Second
22 Appellate District Court of Appeal.

23 And I don't know whether you -- the Commission
24 wants to comment on -- anything on the record with regard to
25 what I advised them.

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CERTIFICATE OF REPORTER/TRANSCRIBER

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I, Cynthia M. Judy, a duly designated reporter and transcriber, do hereby declare and certify under penalty of perjury under the laws of the State of California that I transcribed the tape recorded at the Public Meeting of the Industrial Welfare Commission, held on March 5, 2004, in Sacramento, California, and that the foregoing pages constitute a true, accurate, and complete transcription of the aforementioned tape, to the best of my ability.

Dated: March 6, 2004

CYNTHIA M. JUDY
Reporter/Transcriber