

End of Year Message
Accomplishments 2007-2010: Improving Working Conditions and
Advancing Employment Opportunities in California

The Department of Industrial Relations (DIR) has a long history of service to the people of California. DIR was first established in 1927 to improve the working conditions of California's workers and to advance opportunities for profitable employment in California. DIR is now comprised of 16 divisions, boards, commissions and programs including Cal/OSHA, the Division of Workers' Compensation and the Division of Labor Standards Enforcement.

As DIR's Director, I realize the Department touches the lives of every worker and employer in California every day. By using our resources to best benefit those we serve, we have accomplished the significant and fundamental goals of promoting, protecting and improving the health, safety and economic well being of California workers as well as creating a level playing field for employers who are compliant with California's labor laws. Our achievements have been made possible by using the multi-pronged approach of education, outreach and enforcement. Our steady persistence in using this approach has paid off in the form of improved working conditions for employees and a stable, reliable environment for employers.

Workers' Compensation

Significant accomplishments have been realized in the state's workers' compensation system. California enacted a workers' compensation system in 1913 to provide benefits to injured employees and protect employers from unlimited liability. This bargain between employers and workers is the heart of California's workers' compensation system. DIR's Division of Workers' Compensation (DWC) now oversees the system and has made major strides in addressing the needs of both employers and workers with efforts to improve care, control costs and increase accessibility to workers' compensation insurance coverage. Ensuring timely and appropriate benefits to workers as well as getting them back to work when medically feasible is critical to reducing unnecessary wage losses.

In 2009, DWC began implementing improvements outlined in a 12-point plan that is aimed at building upon 2004 landmark workers' compensation reforms. The plan's objective is to monitor and contain medical costs by enhancing network care, streamlining administrative procedures and eliminating overcharging for medical services. In 2009, the average insurer rate was 64% below that charged in 2003, saving employers cumulatively more than \$70 billion. Workers' compensation benefit

claims decreased 36% from 2003 through 2009, and early indications are that claims have not increased in 2010.

DWC also successfully expanded the scope and reach of its worker educational campaigns resulting in the implementation of outreach programs for all 24 DWC offices across the state, along with targeted outreach to specific groups. More than 60 Spanish-language educational events were held last year to help eliminate needless litigation and ensure workers who are most vulnerable to on the job injuries understand how to get the treatment they are entitled to under the law.

Another first for the division took place in 2009, when DWC partnered with community advocates to launch a customer service pilot project designed to help injured workers overcome obstacles and receive benefits when their employers are illegally uninsured. This project is an innovative approach that focuses on expanding existing services to meet the real needs of unrepresented injured workers.

A final significant development includes the establishment of the first workers' compensation carve-out with an integrated medical care component. This approach helps expedite medical care from the same provider for both work-related and non-work-related injuries and illnesses through Kaiser Permanente. The goal is to lower costs, provide better medical care for injured workers, and expedite resolution of disputed workers' compensation benefit claims. This was accomplished by the Commission on Health and Safety and Workers' Compensation (CHSWC).

Health and Safety

One of our many accomplishments that successfully incorporate each element of the education, outreach and enforcement multi-pronged approach is Cal/OSHA's heat illness prevention campaign. When repeated heat waves in 2005 began having a major impact on the health of California's outdoor workers, the state took action and developed regulations to protect employees from the heat.

Cal/OSHA diligently promoted and enforced the regulations. It launched the state's first large-scale experiment to determine the extent to which our programs actually change behavior and reduce fatalities on the job.

Cal/OSHA created a comprehensive regulatory heat illness prevention program to reduce worker deaths and illnesses due to heat and is now in the final stages of evaluating this program. The program has included aggressively enforcing the regulation, educating workers on their rights and employers on their responsibilities under the law, and forming partnerships with industry, labor, and community groups to

help spread the word. In fact, in 2008, California became the first state in the nation to partner with agricultural groups to offer dozens of heat illness prevention training seminars annually. This partnership brought together agricultural leaders representing over 80 percent of the industry in California.

Since California enacted its heat illness regulation, heat illness fatality rates have declined from twelve in 2005 to one so far in 2010. The rate of employer compliance with the heat illness prevention standard, as verified by onsite inspections, has steadily increased every year from 35% in 2006 to 73% in 2009 and this year to 82%. This year alone, Cal/OSHA has conducted more than 3,000 heat related enforcement inspections and 1,600 heat illness outreach efforts across the state for both workers and employers.

Cal/OSHA continues to be a national leader not only in heat illness prevention, but most recently by being the first state in the nation to implement an aerosol transmissible diseases standard to protect health care and other workers in high-risk occupations from diseases like tuberculosis, measles, and pandemic influenza.

California's Voluntary Protection Program (Cal/VPP) is a nationally recognized safety and health recognition program for employers that was the first of its kind in the nation when originally pioneered here decades ago. It served as the model for Federal OSHA's Voluntary Protection Program. These programs recognize businesses for outstanding achievements in safety and health, going beyond minimum requirements for compliance with workplace safety and health regulations, and seek to make them role models for businesses to emulate.

We have seen a significant growth in our Cal/VPP with over 2,650 on-site visits conducted this year compared to 2,500 in 2009. There are currently 83 certified VPP sites in California. Cal/OSHA administers other safety and health recognition programs which seek to partner with employers who want to improve their safety and health programs and eventually achieve VPP status. All have seen increased interest recently, like the Golden Gate program, which had 321 participants in 2009 compared to 197 in 2008. The Golden Gate Program was developed particularly as an entry-level program for smaller, high hazard employers, who must put into place what Cal/OSHA deems to be an effective injury and illness prevention program as a starting point for receiving recognition from Cal/OSHA.

As a national leader Cal/OSHA has maintained an open and frank dialogue with a myriad of stakeholders comprised of representatives from business, labor, the general public, and academia. It is from these stakeholder discussions that we have developed many of our standards, including the newly signed into law AB 2774, which allows

enforcement officers to better identify serious violations and provides improved guidance to the Appeals Board in cases where the issuance of a serious citation is in question.

Future Workforce

Our educational efforts focus on the workforce of the future as well. More than \$43 billion worth of public works projects loom on California's horizon and will bring with them jobs for skilled trades people. The Division of Apprenticeship Standards (DAS) expanded our outreach to California's future workforce by promoting new apprenticeship opportunities.

DAS also created the "I Built It" campaign which Governor Arnold Schwarzenegger launched in 2008. The following year, DAS continued the effort with the "I Built It – Youth" campaign to raise awareness for junior high and high school students about possible career options in the building construction trades. Phase three of the apprenticeship campaign is now in the works and focuses on the environment. The "I Built It – Green" campaign is scheduled to begin early next year and is designed to create awareness that the building construction trades are the original green jobs, and to promote apprenticeship opportunities that focus on creating energy efficient buildings, preservation of natural resources, and prevention of environmental degradation.

Nearly 700,000 apprentices have literally helped build this state, and new, innovative apprenticeship programs will continue to ensure California has a skilled workforce for an emerging economy.

Our Public Works Training Seminars educated contractors and awarding bodies in the public works community about the legal requirements of the public works marketplace. These seminars were developed as a result of information gathered in 2007 from the newly formed Director's Advisory Council on Public Works which includes several divisions within DIR. Four seminars were held that provided training to hundreds of participants about what is expected when working on a public works project. Through this education process DIR developed greater collaboration across divisions within the department, which resulted in a more friendly, customer-service based approach for our constituents.

Enforcement

We are beginning to see some signs of light after a troubling and dark economic time. For many businesses, sales have been down, staffing levels cut, and business competition increased. In order to ensure an even playing field for all California businesses, our enforcement efforts remain vigorous; in fact the Division of Labor

Standards Enforcement (DLSE) is reaching new enforcement milestones. DLSE made inroads targeting the underground economy that is made up of businesses that deal in cash and avoid paying their payroll taxes or violate other wage laws in order to gain an economic or competitive edge over compliant businesses.

DLSE recorded its highest level of overall enforcement targeting the underground economy with \$46 million dollars in penalties in 2008. The Division maintained a high level of enforcement to fight against the underground economy. An example of this is the landmark legal victory against a janitorial contractor for violating Labor Code Section 2810, which makes it illegal to subcontract janitorial and other services without providing sufficient funding to allow the subcontractor to comply with all laws or regulations. This landmark decision benefited over 200 low income workers.

DLSE has also taken enforcement action against contractors who have not followed state laws when working on public works projects. It has used debarments as an enforcement tool barring contractors who have been found in violation of public work laws from working on future public works projects. In addition to debarments, DLSE has stepped up efforts to clarify employer requirements and gain a greater level of compliance, including strategic litigation, opinion letters, and implementing a new settlement policy designed to bring employers into compliance without costly litigation.

The current difficult economic time poses new challenges to the Office of Self Insurance Programs (SIP), which made improvements in order to better strengthen its regulations with additional measures to improve and stabilize the self-insurance system, particularly that of self insured groups. Because of these changes, SIP has achieved a greater level of transparency of its function and is able to identify potential financial issues with self insured companies or groups.

Every industry has felt the impact of the economic downturn. For some, that impact created a strain in employer-employee relations and added tension to contract talks. Despite this additional obstacle, the State Mediation and Conciliation Service (SMCS) expanded its role and began its groundbreaking work providing mediation services to other state agencies and departments. SMCS continued to build upon its successes in preventing potentially crippling strikes in California. In just the last two years, SMCS helped avert strikes at BART and San Mateo County Transit, helped negotiate a contract deal between nurses and the University of California, and mediated a contract dispute between the Los Angeles Unified School District and its teachers' union.

Looking Ahead

While I am encouraged by what we at DIR have been able to achieve, the future holds many challenges and there is still a lot of work to be done.

We need further evaluation of Cal/OSHA's and DLSE's education, outreach and enforcement approach. This includes continuing efforts to develop partnerships with labor and employer groups and devising new ways and methods to educate and inform the public about workers' rights and employers' responsibilities.

DIR must continue to aggressively target the underground economy by maintaining joint enforcement practices to focus our efforts on leveling the playing field for legitimate employers. A successful tool in this effort is our matching records program that identifies employers who are operating without workers' compensation insurance by comparing employer data from the Employment Development Department with data from the Workers' Compensation Insurance Rating Bureau. Together with joint enforcement and the matching records program we can continue to identify employers who are seeking an unfair advantage over compliant businesses.

Another ongoing issue is the need to forge ahead with progress in the workers' compensation insurance system. Reform is an ongoing process and the state must remain vigilant about rising costs for California's employers, focus on ways to make the system more user-friendly, and reduce unnecessary litigation while returning workers quickly back to their jobs.

We also must continue to build upon our efforts to give people in California meaningful skills by fostering and promoting apprenticeship opportunities. The state's Strategic Growth Plan will create public works projects across California through 2016. DAS plays a critical role in keeping the work local and preventing a shortfall of labor. Taking a progressive, forward-thinking approach can enable the state to provide highly-skilled employees needed in the job market of the future.

Facing budget constrictions and limited resources, DIR must focus on priorities and efficiencies. The tasks set before the Department will not be easy to achieve. May our current accomplishments serve as a reminder of what is possible with dedication and a commitment to service.

Thank You

Our achievements are due to the dedication and hard work of my management team, most notably Chief Deputy David Rowan, Cal/OSHA Chief Len Welsh, Labor Commissioner Angela Bradstreet, and Acting Administrative Director Carrie Nevans. I

am grateful for their efforts and the dedication of all DIR management and staff in providing such outstanding service to the people of California.

I would like to thank the many members of the public, our stakeholders, who have given their valuable time to participate in our open meetings and hearings by sharing ideas on how to better serve the people of California. Your involvement has helped to improve working conditions in California and to advance opportunities for profitable employment in California. Happy New Year and all the best in 2011.

John C. Duncan
Director