

Funding Source to Stabilize Department of Industrial Relations

Background

Until the recent budget crisis, a significant portion of the funding for the operations of the Department of Industrial Relations (DIR) was provided by the state's general fund. But over the last two years many state agencies, including DIR, have lost revenues due to legislative and administrative funding cuts. In order to stabilize funding for the DIR operations, which include the Division of Workers' Compensation (DWC), the Division of Occupational Safety and Health (DOSH) and the Division of Labor Standards Enforcement (DLSE), the Legislature authorized a temporary funding mechanism to collect fees to replace general fund monies lost during the budget crisis.

The fund shift, called the Workers' Compensation Premium Assessment (WCPA), administered by the Division of Workers' Compensation, began in 2008 when approximately 16 percent of general fund dollars (\$14.8 million) were cut from the DOSH budget.

Under the WCPA funding mechanism DOSH funding will be as follows:

- 41 percent (\$34.9 million) will be covered by the assessments
- 28 percent will come from the federal government, and
- 31 percent from fees generated from its operating functions including elevator, pressure vessel, amusement ride and tramway inspections.

The WCPA will also be used to cover the 30 percent reduction (approximately \$15 million) in general fund money taken from the DLSE budget in FY 09/10. An additional DLSE general fund budget reduction (approximately \$21.89 million) will occur in the 2010/11 fiscal year.

Under the WCPA funding mechanism DLSE final funding will be as follows:

- 70 percent will be covered by the assessments
- 30 percent will come from licensing fees and penalty assessments

Cap and Sunset Provisions

The new WCPA assessment is a temporary solution designed by the legislature to address current budgetary conditions. The increased DOSH and DLSE assessments will sunset (be removed from the budget) in 2013 unless action is taken by the Legislature to continue the WCPA at its current level. Until that time, the assessments are capped and may not exceed \$52 million for DOSH and \$37 million for DLSE.

Programs Funded by WCPA

The assessments are outlined in Labor Code sections 62.5 and 62.6. Legislation in 2009 created a new fund to be included with the annual assessment: The Labor Enforcement and Compliance Fund (LECF) provides a stable funding source for the DLSE, which enforces minimum labor standards and the statutory requirement to carry workers' compensation insurance. In addition to fully funding the work of the DWC, and partially funding the work of DOSH and DLSE, Labor Code section 62.5 requires insurers to collect money from employers to fund:

- antifraud efforts by the California Department of Insurance and local district attorneys
- pay benefits to injured workers whose employers were illegally uninsured, and

- provide compensation to injured workers who already had a disability or impairment at the time of injury.

In addition, legislation in 2009 created the Labor Enforcement and Compliance Fund (LECF) to provide a stable funding source for the DLSE, which enforces minimum labor standards and the statutory requirement to carry workers' compensation insurance.

As a result, the WCPA covers the following funds:

- Workers' Compensation Administration Revolving Fund
- Uninsured Employers Benefit Trust Fund
- Subsequent Injuries Benefit Trust Fund
- Workers' Compensation Fraud Account
- Occupational Safety and Health Fund
- Labor Enforcement and Compliance Fund

The WCPA collects fees from employer paid premiums assessed by insurance companies, and from self-insured employers based on paid indemnity. Through this mechanism, DWC invoices insurance companies for fees, which are then deposited into the appropriate trust fund. The insurance company then assesses employers a fee based upon their calculated premiums. Self-insured employers are billed directly by DWC.

A notification letter explaining the new funding shift has been distributed to insurance companies and self-insured employers and is posted on the DIR web site. The new funding shift is designed to bring stability to DOSH and DLSE operations, enabling the divisions to maintain the existing level of service. It also will allow DLSE and DOSH to continue their efforts to create a better business environment for legitimate employers in California.

Benefits to Employers

Under the WCPA, in tough budget years the divisions will not experience general fund budget cuts that can erode the effectiveness of the services they provide, which include:

- Support for enforcement of programs to eliminate the underground economy
- Enforcement of labor laws at a sustainable level to ensure a more competitive business environment by pursuing employers who break employment laws
- Pursuit of uninsured employers who fail to carry workers' compensation coverage for their workforce
- Ensuring workplace safety across the state
- Providing compliance assistance for employers who are striving to increase safety on their jobsites
- Decreasing injuries, illnesses and fatalities at jobsites across the state

By creating a stable funding source for DLSE and DOSH, employers are better served by these divisions. The efforts of DOSH and DLSE assist law abiding employers across the state and make their businesses stronger by removing unfair competition and creating better work environments for employees.