

DEPARTMENT OF INDUSTRIAL RELATIONS

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March 22, 1999

Mr. Gregory Schmidt
Secretary of the Senate
State Capitol, Room 3044
Sacramento, CA 95814

Mr. E. Dotson Wilson
Chief Clerk of the Assembly
State Capitol, Room 3196
Sacramento, CA 95814

Dear Mr. Schmidt and Mr. Wilson:

As required under Labor Code § 90.5(d), attached is the 1998 annual report to the Legislature on the effectiveness of the Bureau of Field Enforcement, a unit within the Division of Labor Standards Enforcement.

Sincerely,

A handwritten signature in cursive script that reads "Stephen J. Smith".

Stephen J. Smith
Director

Attachment:

✓cc: State Labor Commissioner

DEPARTMENT OF INDUSTRIAL
DIVISION OF LABOR STANDARDS ENFORCEMENT

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ANNUAL REPORT ON THE EFFECTIVENESS OF BUREAU OF FIELD ENFORCEMENT

Labor Code § 90.5(d) requires the Labor Commissioner to report annually to the Legislature concerning the effectiveness of the Bureau of Field Enforcement (BOFE). This report shall include: (1) the enforcement plan adopted by the Labor Commissioner and the rationale for the priorities, (2) the number of establishments investigated by BOFE, and the number and types of violations found, (3) the amount of wages found to be unlawfully withheld from workers, and the amount of unpaid wages recovered for workers, and (4) the amount of penalties transferred to the General Fund as a result of the efforts of BOFE.

BOFE investigates complaints and takes enforcement actions to ensure employees are not being required or permitted to work under unlawful conditions. Enforcement action taken by BOFE involves the enforcement of child labor laws; the requirement of employers to carry workers' compensation insurance coverage; audits of payroll records, collection of unpaid minimum wages, overtime, as well as prevailing and other unpaid wages; the issuance of civil and criminal citations; and the confiscation of illegally manufactured garments, and injunctive relief to preclude further violations of the law.

The Labor Commissioner has maximized enforcement efforts through the use of multi-agency enforcement programs operating within BOFE. These programs are designed to focus enforcement on those employers committing flagrant violations or operating in the underground economy. The Labor Commissioner is intent on giving the economic advantage back to the law-abiding employer, and to protect workers from unlawful labor practices. These multi-agency programs are specifically, the Targeted Industries Partnership Program (TIPP), which is a joint enforcement and educational effort between the Labor Commissioner and its sister agency, the Division of Occupational Safety and Health (Cal/OSHA), the California Employment Development Department and the U.S. Department of Labor, Wage and Hour Division. The second program is the Joint Enforcement Strike Force (JESF), whose members include the Labor Commissioner, the Employment Development Department, the Department of Consumer Affairs, the Office of Criminal Justice Planning, the Department of Justice, the Franchise Tax Board, and the Board of Equalization.

During the past year, investigators in BOFE have concentrated their efforts in industries with histories of labor law violations, as well as industries that tend to operate in the underground economy. Specifically, BOFE, including the TIPP and the JESF, has focused on enforcement activity in such industries as garment manufacturing, agriculture, bars, and restaurants. In the 4,835 inspections conducted during 1998, the greatest number of violations found involved failure to carry workers' compensation insurance coverage, resulting in 1,099 citations. Investigators also issued 493 citations for violations relating to garment manufacturing registration requirements and 553 citations for paying employees in cash without the required itemized wage deduction statement.

In 1998, the rules and regulations governing the licensing of employers, transporters, and supervisors of minors involved in door-to-door sales were adopted. The Labor Commissioner then created a specialized unit to target employers, transporters and supervisors in the State who transport minors more than 10 miles from the minor's residence to perform door-to-door sales of candy or other merchandise and who have not obtained the legally required license.

During 1998, the TIPP garment enforcement program continues to target the underground economy. Some of the enforcement strategies used by TIPP that were specifically employed to target the illegal activities of the underground economy were:

- Weekend and night inspections
- Manufacturer label identification to target repeat offenders
- Pursuing criminal sanctions and the confiscation of sewing machine heads from illegal industrial homeworkers
- Enhanced educational outreach activity directed towards the State's employer and employee communities.

During 1998, TIPP investigators from DLSE collected \$1,275,096 in wages owed to employees in the targeted industries of garment manufacturing, agriculture, and restaurants. An additional \$213,300 is expected to be paid out by the end of Fiscal Year 1998/99 from the Garment Manufacturing Special Fund, a Fund established to pay workers who have been damaged by registered garment employers. These wages owed are the result of a high profile TIPP investigation of a garment contractor who owed back wages for 184 employees. Investigation of this employer resulted in one of the largest confiscation of goods during the year, nearly 200 bags of illegally manufactured garments were confiscated from the contractor.

In addition to enforcement of specific Labor Code statutes and provisions of the Industrial Welfare Commission (IWC) wage orders, BOFE investigates complaints arising from violations of the state's prevailing wage laws, and conducts payroll audits on behalf of California's workers for back wages owed. During 1998,

BOFE recovered approximately \$3.4 million in wages, and also recovered over \$4 million for workers on public works projects. In addition to collecting wages owed for underpayment or non-payment of prevailing wages, BOFE collected \$3.8 in civil penalties for wage and public works violations.

Many businesses that violate the laws do so out of ignorance of their responsibilities as employers. In CY 1998, an aggressive, high profile and well-publicized educational outreach program, directed at the employers in the garment manufacturing, restaurant, agricultural and construction industries making full use of the media serving the large immigrant population of California was carried out. During the year, DLSE held more than 30 educational seminars in the four targeted industries. In the restaurant industry, in particular, the Division held nine large educational meetings with representatives from both employer and employee groups throughout California. Some of the locations that restaurant seminars were held were in Oakland, San Francisco, Los Angeles, Redding, Orange County and Sacramento. Other seminars have included representatives from the Day Laborer and Domestic Worker communities, and Farm Labor Contractors and their supervisors.

Taken together, the multi-agency joint enforcement programs, the ongoing public works regulatory activity and the educational and outreach efforts of BOFE have all served to create an increasingly effective unit for enforcing the state's labor laws for the protection of California's workers, and to ensure equal competition for all law-abiding employers in the state.

In accordance with subsections (2), (3), and (4) of Labor Code § 90.5(d), the following data is presented to demonstrate the effectiveness of the field enforcement unit during 1998:

Number of Establishments Investigated	4,835
Total Number of Citations Issued for Labor Law Violations	2,494
Workers' Compensation Insurance	1,099
Child Labor	213
Cash Pay	553
Minimum Wage	102
Unlicensed Contractors	34
Garment Manufacturing Penalties	493

Public Works (prevailing wage) Enforcement

Cases Opened	1,172
Cases Closed	1,133
Wages Recovered	\$4,003,754
Penalties Collected	\$1,048,262

Amount of wages recovered for workers * \$7,422,176

* This figure denotes only wages recovered through BOFE and Public Works. General wage claims filed with the Labor Commissioner are not processed through BOFE.

Amount of penalties transferred to the
General Fund in Calendar Year 1998 \$2,821,990

Respectfully Submitted,


Jose Millan
Chief Deputy Labor Commissioner

February 1999