

DEPARTMENT OF INDUSTRIAL RELATIONS

Office of the Director

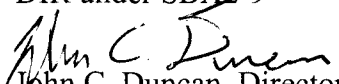
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TO: Persons interested in prevailing wage compliance monitoring and enforcement by DIR under SBX2-9

FROM: 
John C. Duncan, Director

DATE: October 21, 2010

SUBJECT: Notice of Proposed Emergency Action to Suspend Effect of SBX2-9 Regulations and Compliance Monitoring Unit

I regret to inform you of our need to take emergency action to suspend the effect of the new SBX2-9 regulations and operation of the Compliance Monitoring Unit ("CMU"), while we address questions raised by another state agency concerning the legality of our fees for bond-funded projects. Unfortunately, these questions threaten the state's ability to issue and sell bonds to fund public works construction, including a very short window of opportunity to sell bonds during the month of November. Consequently, I am proposing to suspend our CMU regulations at Title 8, California Code of Regulations, sections 16450 through 16464, so that bonds can continue to be sold and used to fund public works while the underlying questions are resolved.

The basis for this action is explained more fully in the Notice of Emergency Action being sent with this notice. Please note that we intend to file the Notice and proposed text (repealing the regulations) with the Office of Administrative Law on October 26, 2010, and that you will then have five days within which to submit written comments on the proposal, including the finding of emergency, directly with the Office of Administrative Law. Please see the attached notice for additional information about where to send your comments once the proposal has been filed with the Office of Administrative Law. The OAL website (<http://www.oal.ca.gov/>) will also have information on the status of the proposal and any decision to approve or disapprove the emergency rulemaking.

If this proposal is approved as submitted, the effect will be to suspend fee-based monitoring and enforcement by the CMU and restore labor compliance program requirements that existed for various categories of projects prior to August 1, 2010. We will refund or reimburse fees paid for recently-awarded projects, and we will provide further guidance as needed to help awarding bodies get back into compliance with any preexisting LCP requirement.

In light of this action we are also suspending further action on LCP fee waiver requests and other issues pertaining to the implementation of SBX2-9 until the legal issues underlying this emergency rulemaking are resolved.