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IN 1927 THE STATE OF CALIFORNIA ESTABLISHED THE DEPARTMENT OF Industrial Relations (DIR) to improve working conditions for California's wage earners and to advance opportunities for gainful employment in California.¹ Among its many duties, the DIR has primary responsibility for enforcing the state's labor laws. Within the DIR the Division of Labor Standards Enforcement (DLSE) enforces California's wage and labor standards, and the California Occupational Safety and Health Program (Cal/OSHA) enforces workplace safety. These agencies are responsible for protecting the legal rights of over 17 million California workers and regulating almost 800,000 private establishments, in addition to all the public sector workplaces in the state (U.S. Census Bureau 1999). Their effectiveness—or lack thereof—is of great significance for working people throughout the state.

Today, despite the efforts of the agencies, noncompliance rates remain extremely high in many industries, and thousands of California's workers remain unprotected. In 2001 alone the DLSE fined employers over \$20 million in back wages for non-compliance with California's labor standards (Lujan 2002). In the same year approximately 6 out of every 100 California workers sustained an injury due to unsafe conditions on the job (U.S. Department of Labor 2000a). A study by the U.S. Department of Labor found that two-thirds of garment employers in Los Angeles violated minimum wage or overtime laws, or both, in the year 2000 (U.S. Department of Labor 2000b). Although the 33 percent compliance rate is an improvement over the 1996 figure of 22 percent, it is still far from ideal.

An equally important concern is the difficulty in assessing the effectiveness of these agencies, because the available data are generally limited to measures of *activity*, and even these measures are often ambiguous. The agencies have few reliable measures of the *outcomes* of the state's labor law enforcement efforts, and in the case of the DLSE virtually no such measures exist.

Since the 1980s labor law enforcement has faced significant challenges stemming primarily from the budget cuts and low staffing levels that were pervasive during the 16 years under the Deukmejian and Wilson administrations. And while funding

1. Thanks to Joy Yang for research assistance and to Larry Frank for his guidance and feedback.

and staffing levels decreased during this period, the divisions' responsibilities have increased.

Governor Gray Davis's administration has made new funding available to the labor enforcement divisions since 1998. Nevertheless, even today their resources remain below the levels of the mid-1980s. Among the key factors shaping the situation are the following:

Budgetary Constraints. Between 1980 and 2000 California's workforce grew 48 percent, while DLSE's budgetary resources increased only 27 percent and Cal/OSHA's actually *decreased* 14 percent. Enforcement funding, relative to the numbers of workers and employers in California, has been "decimated" over the last two decades, according to current State Labor Commissioner Art Lujan (Cleland 2001).

Low Staffing Levels. During the same two decades, from 1980 to 2000, DLSE and Cal/OSHA staffing levels have *decreased* 7.6 percent and 10.8 percent, respectively, despite California's growing economy and workforce and the divisions' burgeoning responsibilities.

Managing New Responsibilities. New responsibilities under legislation passed in recent years have placed new demands on the agencies. Although the laws were certainly intended to provide new enforcement tools, not simply additional work, they often went into effect without providing adequate resources for effective implementation.² Examples of such legislation include:

- Senate Bill 975, which expanded the prevailing wage law to include many more construction projects, thus requiring the DLSE to expand its oversight and investigation capabilities;
- Assembly Bill 60, which restored California's original eight-hour overtime law that had been amended under former Governor Wilson;
- Assembly Bill 1127, which raised the fines for noncompliance with safety and health laws to levels that strengthen deterrence and include unpaid wages in the civil penalty citation;
- Assembly Bill 633, which held parent or lead companies accountable for their contracting companies' noncompliance, specifically within the garment industry. (See Appendix 5H for additional legislative examples.)

Decline in Union Density. Union density in California has declined sharply over the past 30 years. Since unions often actively monitor firms' implementation of labor laws and push to correct violations, deunionization effectively adds to the

2. For example, in 1999 the state legislature passed AB 921, requiring the DIR to conduct a statewide comprehensive audit of all the programs overseen by the Division of Apprenticeship Standards (DAS). California has approximately 1,400 such programs, but to date DAS has audited only a handful of them. Funding cuts have hampered the DIR's ability to perform these audits.

workload of DLSE and Cal/OSHA. Employees in nonunion settings are often unaware of the labor laws that protect them, and even when they are, they may be fearful of speaking up.

Changing Industrial Composition. In the 1970s manufacturing and construction had the highest shares of workplace violations in California. Over time, however, employment growth has become concentrated in the high-skilled, technology, and value-added industries on one end, and in low-skilled low-wage jobs on the other. Manufacturing jobs remain plentiful, but today most are in small, nonunion establishments that are often unsafe and that tend to have relatively high rates of labor law violations. Serious violations are especially widespread in the garment, agricultural, construction, and service sectors. In 1999, for example, Cal/OSHA Deputy Chief Mark Carleson stated, “I think there’s 100 percent noncompliance in garments [the garment industry] and 75 percent have at least one serious violation” (*Cal/OSHA Reporter* 1999).

Growing Immigrant Workforce. Between 1970 and 1999 immigrants’ share of the state’s labor force rose from 10 percent to 30 percent of the total (Valenzuela and Ong 2001: 58). Effective labor law enforcement in California thus requires agencies capable of communicating with these new immigrant workers, many of whom are not fluent in English. Yet in 2001 Cal/OSHA only had 27 certified bilingual investigators—out of 250—to address the needs of California’s industries, many of which have predominantly non-English speaking workforces.

This chapter assesses DIR’s field enforcement efforts within the DLSE and Cal/OSHA. We first provide an overview of the two agencies, outlining their structure and the principal tasks they perform. We then go on to review the record of the agencies’ field enforcement over the past 30 years—specifically, their allocated budgetary and staffing resources, as well as the resulting inspections, citations, and penalties they carried out. We treat the DLSE and Cal/OSHA in separate sections, as they are distinct agencies with separate mandates, managements, and processes—each with its own strengths and each facing specific challenges.

In addition, we highlight the inadequacy of the measures of these agencies’ activities that are currently available. This examination points to the urgent need for measures of *outcomes*, which are currently nonexistent for the DLSE and limited for Cal/OSHA.

Overall, we find that the agencies’ budget and staffing allocations have not kept pace with the growth in California’s workforce and business establishments and in the agencies’ responsibilities. Beginning in 1993, following far-reaching staffing cuts, the number of inspections conducted by both agencies decreased almost steadily until 1998, when it began rising slightly because of augmented funding and staff hiring. In 1988, for example, the DLSE conducted one inspection for every 58 business establishments in California, but by 1999 DLSE was investigating roughly one in every 148 business establishments.

We also find that despite recent increases in funding and staffing—the first in 10

years—the agencies are still operating at 1989 levels.³ Nevertheless, several key activity indicators, such as the number of investigations, citations, and penalties assessed, have failed to rise in proportion to the new allocations. This could be due to a time lag between receiving new funding and adding staff, the need to train new staff members, or other organizational problems.

CALIFORNIA'S ENFORCEMENT AGENCIES: A BRIEF OVERVIEW

Labor law enforcement is only one part of a multipronged DIR program designed to protect California's workforce.⁴ The DIR's efforts include standard setting, informational and educational programs for employees and employers, apprenticeship training, data collection and research, processes for employers to appeal citations, and criminal investigations. While all of these activities are essential, here we focus on the field enforcement efforts specific to the DLSE and Cal/OSHA.

The Division of Labor Standards Enforcement

The DLSE's goals are twofold: "to vigorously enforce labor standards with special emphasis on payment of minimum and overtime wages in low paying industries; and to work with employer groups, expanding their knowledge of labor law requirements, with the aim of creating an environment in which law-abiding employers no longer suffer unfair competition from employers who follow unlawful practices" (California Department of Industrial Relations 1998–1999). DLSE provides a range of public services, such as adjudication of wage claims, licensing and registration, and investigations of discrimination complaints. The DLSE has two primary ways of dealing with violations: through its process for wage claim adjudication, and through its Bureau of Field Enforcement (BOFE).⁵

The BOFE, created in 1983, is responsible for overseeing child labor laws, work-site inspections, audits of payroll records, collection of unpaid minimum and overtime wages, enforcement of prevailing wage provisions, confiscation of illegally manufactured garments, and other labor law abuses in the underground economy. Unlike

3. We interviewed management and staff at the DIR, DLSE, and Cal/OSHA, as well as union representatives, attorneys, and other stakeholders. These interviews are the sources for the information reported here, except as otherwise indicated. See Appendix 5A for more details on our methodology.

4. For an organizational chart of the DIR, see http://www.dir.ca.gov/org_chart/Org_Chart.pdf. On July 31, 2002, Governor Gray Davis announced the consolidation of several state departments into a new Labor and Workforce Development Agency. The new agency will contain the existing Department of Industrial Relations (DIR) and the Employment Development Department (EDD), along with their boards and commissions; the Workforce Investment Board; and the Agricultural Labor Relations Board.

5. See Appendix 5B for a chart illustrating DLSE's enforcement process.

the adjudication process for wage claims (described below), which responds to individual complaints, BOFE independently initiates workplace investigations and responds to multiple complaints with industry sweeps. When BOFE issues a citation, an employer can choose to appeal the citation through a hearing before an administrative law judge, where the DLSE is one party and the employer, the other. Employers have the right to appeal these decisions further in California Supreme Court.

The DLSE also investigates individual wage claim complaints for nonpayment of wages and violation of overtime laws. This process includes consultations with employers and employees, followed by quasi-judicial hearings if the parties cannot reach a settlement. The DIR established its quasi-judicial wage claim adjudication process in 1976, under legislation that also gives the state labor commissioner the authority to issue final orders on employee-initiated wage claims. These “Berman” hearings, named after the legislator who sponsored the bill, are binding unless appealed within 15 days. Berman hearings provide the aggrieved worker and the charged employer a neutral forum for dispute resolution by deputy labor commissioners. Reliance on these hearings has resulted in a more efficient process, lower user costs for the agency—in both time and money, and lower law enforcement costs for taxpayers.

Employers and workers can appeal a quasi-judicial decision in the courts. If workers wish to do so and their cases go to the courts, DLSE attorneys may represent employee-claimants who could not otherwise afford counsel. The claimants do not necessarily have an automatic right to counsel; DLSE provides representation within the limits of the resources available and based on DLSE attorneys’ judgment about the merits of each case. In court the appeal is *de novo*—that is, the prior decision is wiped out and the case is heard all over again. If an employer appeals and is still found liable, then the employer must pay attorney costs for all parties.

Joint enforcement programs involving multiple agencies, such as the Targeted Industries Partnership Program (TIPP) and Joint Enforcement Strike Force (JESF), assist in DLSE’s mission. These programs are cooperative efforts among several distinct government agencies that target industries identified as having a history of non-compliance. TIPP, which targets the garment, agriculture, and restaurant industries, is a joint investigative effort of the DLSE, Cal/OSHA, and the U.S. Department of Labor. JESF targets auto body repair shops, bars, and construction companies and works jointly with the Employment Development Department (EDD), Department of Consumer Affairs, Office of Criminal Justice Planning, Franchise Tax Board, Board of Equalization, and the U.S. Department of Justice.

Cal/OSHA

In 1973, the California Occupational Safety and Health Program, now known as Cal/OSHA, was approved under the terms of the federal OSHA to be administered by the DIR. The program’s major units are:

- the Cal/OSHA Enforcement Unit, which enforces workplace safety and health regulations through standards enforcement and the investigation of worksite fatalities, serious injuries, and complaints about workplace hazards;
- the Cal/OSHA Consultation Service (within the Division of Occupational Safety and Health), which offers free training and consultation to assist employers and employees in complying with workplace safety and health regulations;
- the Cal/OSHA Standards Board, which adopts, amends, and repeals the standards and regulations; and
- the Cal/OSHA Appeals Board (under the Director of Industrial Relations, which hears appeals regarding Cal/OSHA enforcement actions.

Both the Enforcement Unit and the Consultation Unit operate within the Division of Occupational Safety and Health (DOSH). As Cal/OSHA's field enforcement arm, DOSH's activities range from amusement park and elevator inspections to voluntary compliance programs for employers. Appendix 5C contains a flowchart of a typical inspection with the Cal/OSHA Enforcement Unit.

Safety engineers and industrial hygienists conduct Cal/OSHA's workplace inspections. The engineers handle cases that deal with safety standard violations, and the hygienists investigate cases of alleged health violations. In addition to its field inspectors, Cal/OSHA also deploys district and regional managers, as well as accounting, legal, and administrative personnel, as integral participants in the field enforcement process.

Cal/OSHA field enforcers conduct two types of inspections: programmed and unprogrammed. The agency initiates the programmed inspections through a variety of subagencies, such as Cal/OSHA's Construction Safety and Health Inspection Project (CSHIP) and Agricultural Safety and Health Inspection Project (ASHIP), along with other targeted programs that are prominent in Cal/OSHA's current Strategic Performance Goals.⁶ Unprogrammed inspections are reactive, taking place in response to accidents, complaints, and referrals.⁷ Cal/OSHA has established clearly defined case inspection procedures that range from the opening conference with an employer suspected of violating a standard to the closing conference held before the issuance of a citation.

TRENDS IN DLSE ENFORCEMENT, 1970 – 2000

As noted above, measures of DLSE effectiveness are not currently available. In the following discussion, we therefore rely on interviews and activity data in annual and

6. For more on inspection and strategic planning procedures see Cal/OSHA's policy and procedure manual at <http://www.dir.ca.gov/samples/search/querynp.htm>.

7. Complaints arise from current employees at workplaces, whereas referrals come from persons other than those currently employed at workplaces suspected of noncompliance.

biennial reports to sketch a more detailed picture of the agency's enforcement efforts and to identify future challenges.

Budget

The state's budgetary allocations for DLSE have varied with the policy priorities of the gubernatorial administration in office. The overall health of the state budget, which in turn depends partly on the business cycle, has also affected DLSE's allocation, although historically it has been far less determinative. As shown in Figure 5.1, for example, the DLSE enjoyed strong budgetary growth in the mid- to late-1970s, as Governor Edmund G. Brown, Jr. was a strong supporter of wage and safety standards enforcement, even during times of recession. An excerpt from the DIR's 1974 annual report reflects this sentiment:

The days of arbitrary budget cuts and department staff reductions are over. The volume of cases being handled by this department [DIR] in the interests of working people is too large and too important ever to tolerate returning to that era when labor law programs were suffered like second-class citizens, and often ignored by uncaring officials. (California Department of Industrial Relations 1974)

Nevertheless, between 1981 and 1997 the DLSE did in fact suffer repeated cuts. Despite additional responsibilities mandated by the legislature, and a growing workforce, total funding decreased during this 16-year period, with especially steep cuts over the years 1990–98.⁸ As the figure shows, since Governor Gray Davis has been in office (January 1999), the DLSE's resource allocation has sharply increased.

Another measure of the budgetary allocation is the dollar amount spent on enforcement per worker and per business establishment in the state.⁹ As shown in Figure 5.2, the amount of DLSE funds spent per worker and per establishment

8. See Appendix 5H for a list of recent legislative mandates affecting the DIR and the DLSE. Although Figure 5.1 is indexed to 2001 dollars, the actual budget refers only to the absolute value of dollars and cannot adequately reflect external and internal factors affecting the budget—such as additional funding appropriated with new mandates.

9. For its County Business Patterns series, the U.S. Census Bureau defines an establishment as “. . . a single physical location at which business is conducted or services or industrial operations are performed. It is not necessarily identical with a company or enterprise, which may consist of one or more establishments. When two or more activities are carried on at a single location under a single ownership, all activities generally are grouped together as a single establishment. . . . Establishment counts represent the number of locations with paid employees any time during the year. This series excludes governmental establishments except for wholesale liquor establishments . . . , retail liquor stores . . . , Federally-chartered savings institutions . . . , Federally-chartered credit unions . . . , and hospitals. . . .” See <http://www.census.gov/epcd/cbp/view/genexpl.html>.

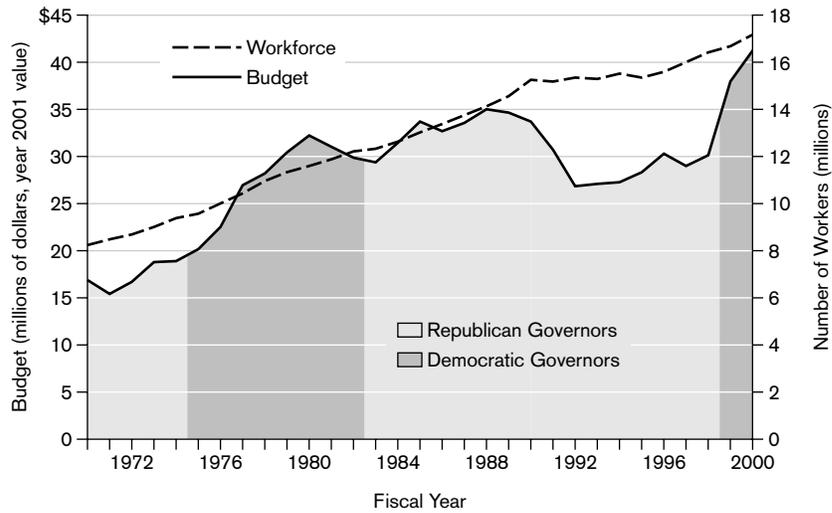


FIGURE 5.1 DLSE Budget and the Number of Workers in California, Fiscal Years 1970 -2000.
SOURCE: Computed from EDD and California State Budget data.

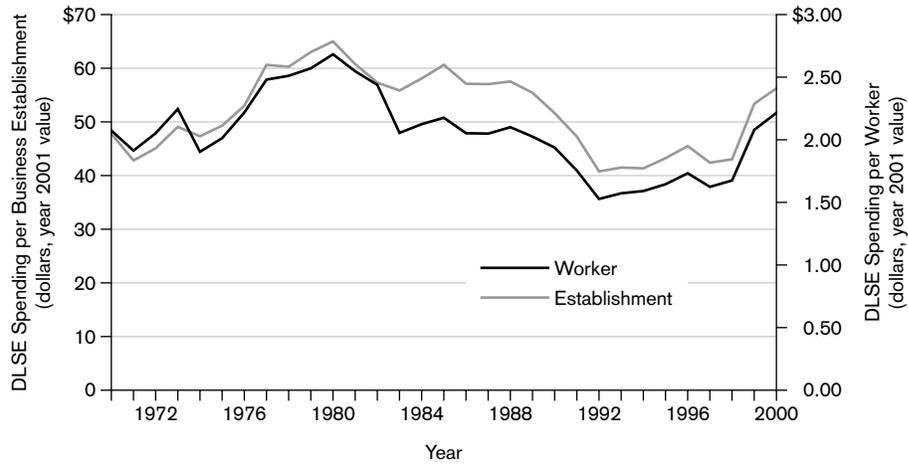


FIGURE 5.2 Ratio of Dollars Spent by DLSE to the Number of Business Establishments and Workers in California, 1970-2000.
SOURCE: Computed from DLSE and County Business Patterns data

steadily decreased starting in the mid-1980s, and although both measures have risen in the past two years, they are still below the levels of 1981. While the situation is improving, it must be noted that these measures take into account only the simple change in numbers of workers and establishments; they do not account for the increasing level of DLSE’s responsibilities over the period.

Staffing

Because of these budget cuts, DLSE staffing levels declined throughout most of the 1980s and 1990s, as shown in Figure 5.3. In 1992, amid a severe recession, then-Governor Pete Wilson cut the budgetary allocation for DLSE staffing from 411 to 348 employees—a 15 percent decrease in a single year. Lloyd Aubry, then-Director of the DIR, remarked that the “challenge for 1992 and 1993 was to ensure prompt and fair adjudication despite a major reduction in staff” (California Department of Industrial Relations 1992). Although the subsequent increases begun under the Davis administration have put DLSE’s staffing level on the rise, it has yet to reach the levels of the late 1970s. According to division representatives, insufficient staffing has been a chronic problem for the DLSE. The staffing levels shown in the figure include all DLSE staff—such as investigators (deputy labor commissioners), office technicians and assistants, auditors, attorneys, and staff assigned to investigate the prevailing wage for public works projects. Thus, the number of positions allocated directly to field enforcement activities was lower. Because of mergers within the division and a lack of systematic data collection, there are no consistent records of the number of investigators over the past 30 years, beyond the overall division staffing data shown in Figure 5.3.

Figure 5.4 estimates the number of workers and the number of establishments in that state per DLSE employee (including nonenforcement staff members). These workforce numbers represent a conservative count, because the Employment Development Department (EDD), the agency that compiles these data, is unable to account for workers in the “underground economy” (those receiving cash payments and ignoring income or business taxes due)—which are precisely the establishments targeted by the DLSE, where wage and standards violations are pervasive.

Although these ratios began declining again in 1999, each DLSE staff member is still responsible for more workers now than in 1991—before the DLSE experienced the sharpest budget decrease in its history. In some instances, specifically in prevailing wage violations, the staff’s inability to meet deadlines in the statute of limitations renders the cases null and void.¹⁰ Although the DLSE does not keep data on the number of cases nullified in this way, one compliance investigator in the not-for-profit sector estimates that in 2001 the DLSE denied roughly a third of his organization’s prevailing wage complaints because of time constraints.¹¹

Inadequate staffing levels—and the DLSE’s inability to investigate all claims—have resulted in numerous nongovernmental entities undertaking investigative work to supplement the staffing gap. In addition to compliance analysts on staff at unions and their health and welfare funds, a growing number of nonprofits have

10. California law provides a 90-day statute of limitations for prevailing wage violations and a three-year limitation for other wage and standards violations.

11. Interview with an employee of the Center for Contract Compliance, March 7, 2002.

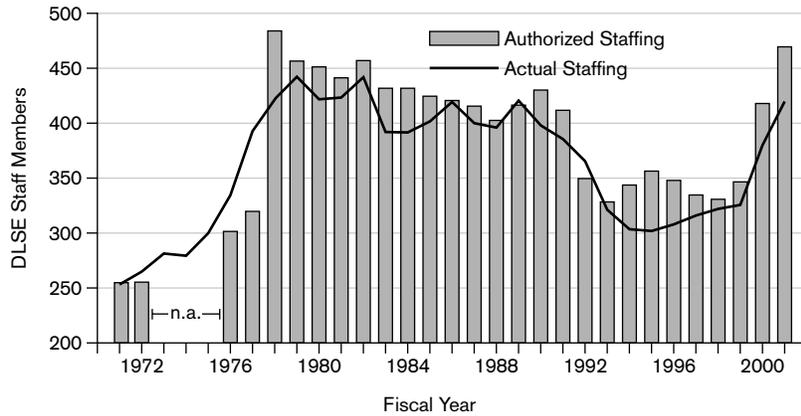


FIGURE 5.3 DLSE Staffing, at Authorized and Actual Levels, Fiscal Years 1970–2000.
 SOURCES: Computed from DLSE and California State Budget data.

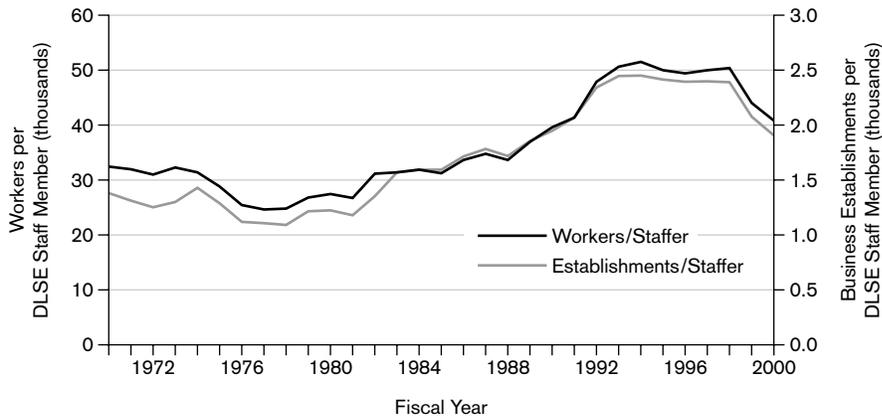


FIGURE 5.4 Actual DLSE Staffing per Business Establishment and per Worker in California, 1970–2000.
 SOURCES: Computed from EDD and DLSE data.

entered this arena to address industry noncompliance.¹² Several other stakeholders and interest groups also work to identify and report noncompliance to the DLSE.¹³ Yet even with these supplemental efforts, our interviews both inside and outside the agency suggest that DLSE’s staffing levels are still not adequate to address the overwhelming caseload.

12. Union-contracted compliance organizations include the Center for Contract Compliance and the Federation for Fair Contracting.
 13. Examples include Sweatshop Watch and the California Rural Legal Association (CRLA).

The Impact of the Budget and Staffing Cuts: Investigations, Citations, and Penalties Assessed

The 16-year period of decline in staffing and funding levels has taken its toll on the division's enforcement activities. In this section we analyze data on DLSE investigations, citations, and penalties assessed and collected over the past decade and a half.

After 1993, the year following Governor Wilson's most far-reaching staffing freeze, the number of DLSE inspections steadily decreased; it has begun to rebound only in the past few years.¹⁴ This recent increase in investigations may be due to the increase in funding and staff size and the subsequent ability to conduct more inspections. A serious limitation of looking at the number of inspections as a way of measuring "success," however, is that the DLSE weighs all of its inspections using the same standards. Thus, whether an inspector is investigating a severe violation where the employer has not paid his 5,000 employees in weeks, or a site where the employer has not given a few workers their breaks, the DLSE counts it as one inspection. In any case, in 1988 there was approximately one inspection for every 58 business establishments in California. In the years since then, the ratio has been steadily increasing; by 1999 DLSE was investigating about one in every 148 business establishments.¹⁵

An examination of the DLSE's staffing levels compared to the number of inspections, shown in Figure 5.5, illustrates that inspections are not solely dependent on budgetary and staffing allocations. The agency may suffer from inefficiencies that complicate the effective use of additional funds and staffing, several of which are described below. Inspection rates may also be the result of internal policy priorities. For example, the two periods of dramatic increase in the number of inspections, 1987–88 and 1991–1993 reflect an increased level of workers' compensation audits; during these periods the Deukmejian and Wilson administrations were targeting California's underground economy in an effort to capture some of the estimated \$3 billion in lost tax revenues annually. (This increase in workers' compensation audits can be seen in Figure 5.6).

Despite the recent increase in staffing levels under the Davis administration, the number of inspections has increased more slowly. The DLSE's current management argues that the relatively small increase in investigations is due to time delays between budgetary increases and new staff being hired, trained, and deemed competent to conduct inspections. Managers in our interviews also said that the agency is targeting its resources to maximize the collection of penalties. As Appendix 5D shows, however, the results of this effort have yet to materialize. Penalty assessments actually declined in the 1997–2000 period, and collections were flat.

Wage and labor standards investigations typically result in the DLSE issuing citations to violators. Figure 5.6 illustrates the numbers and types of citations issued by

14. The earliest BOFE published data for field investigations was 1987.

15. See Appendix 5E for a table showing the numbers of investigations and establishments.

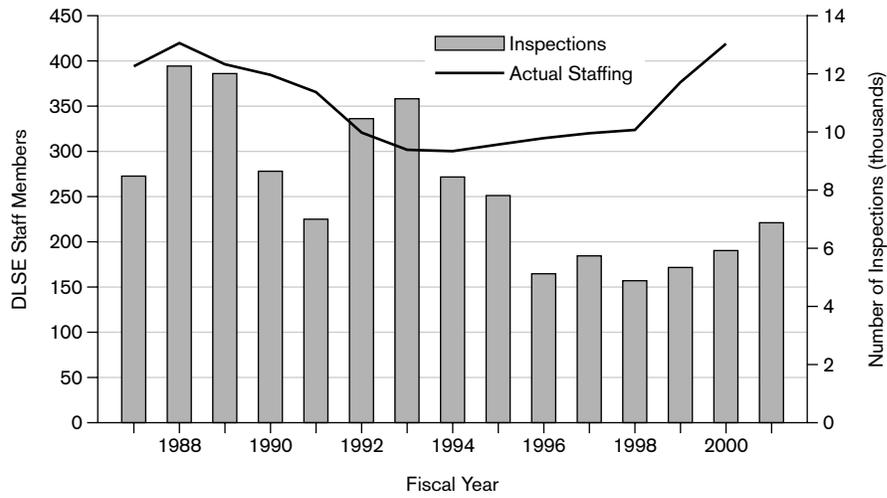


FIGURE 5.5 Actual DLSE Staffing Levels and the Number of Workplace Inspections, Fiscal Years 1974-2000.

SOURCES: Computed from California State Budget and DSLE data.

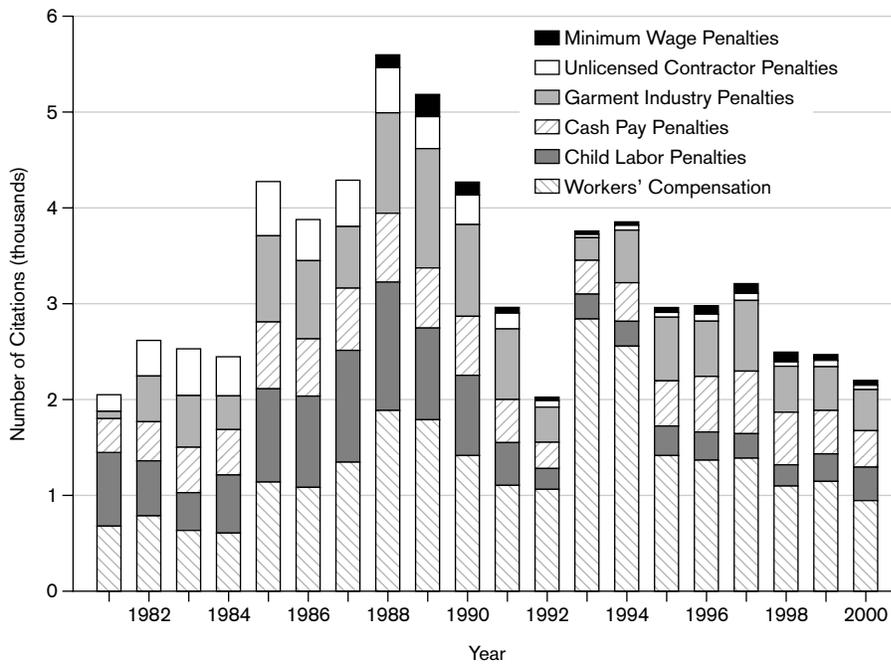


FIGURE 5.6 Number of Citations Issued by DLSE and BOFE, Stacked by Type, 1981-2000.

SOURCE: DLSE.

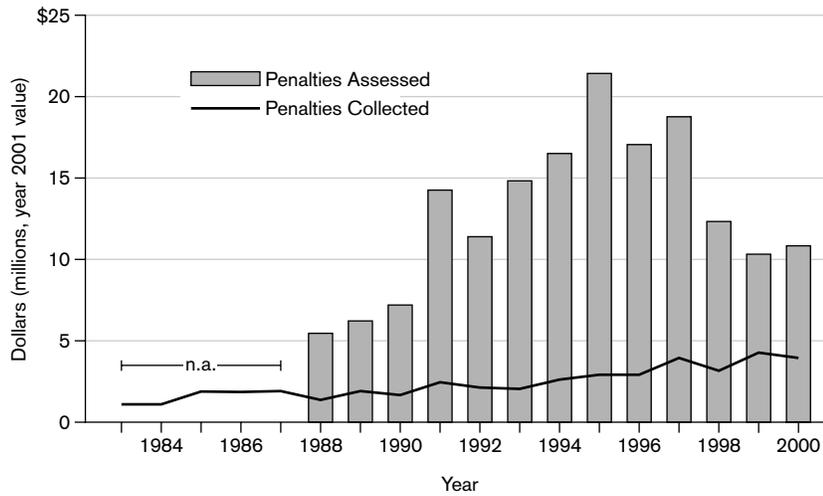


FIGURE 5.7 BOFE Penalties Assessed and Collected, by Dollar Amount, 1983–2000.
SOURCE: BOFE.

the DLSE.¹⁶ Between 1981 and 1988 the levels of citations rose on average, but have since declined. However, the total number of citations in 2000 was 12 percent above the total in 1981—with workers’ compensation citations the largest single category.

Penalties Assessed and Collected

Figure 5.7 shows the number of BOFE penalties assessed and collected since 1983. While the dollar amount of penalties assessed has fluctuated since reaching its peak in 1995, lower levels have prevailed since then; in 2000 the BOFE assessed half of what it had in 1995. In its efforts to focus on collection, the DLSE often notes that the percentage of assessments actually collected has grown from 25 percent in 1988 to 41 percent and 37 percent in 1999 and 2000, respectively. Nevertheless, the sharp increase in the collection rate recently is primarily due to the *decrease* in the penalties assessed rather than a dramatic increase in the monetary amount collected.

The bureau’s collection difficulties are due primarily to business bankruptcy, name changes, and the elusiveness of cited businesses. But it is also important to keep in mind that the penalties BOFE assesses and collects are at best rough proxies for evaluating enforcement activities. Because the DLSE does not have an accounts receivable system, we cannot make a direct link between the penalties assessed and those collected in a given year; rather, we can obtain only general bureau figures for penalties assessed and penalties paid. In addition, the BOFE did not begin publishing the actual dollar amount of penalties assessed until 1988; before then, no data are available.

16. See Appendix 5F for the data associated with this figure.

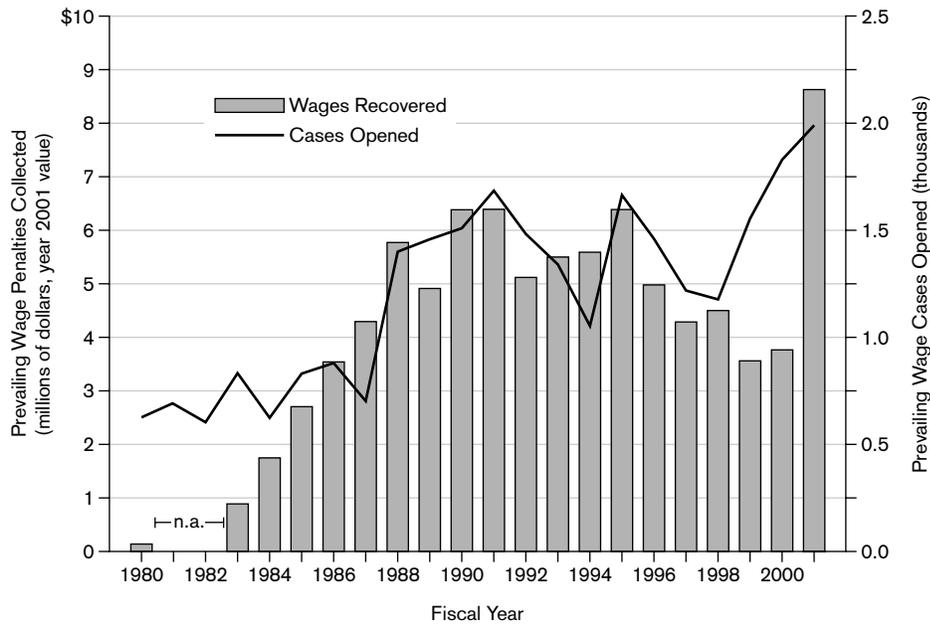


FIGURE 5.8 Prevailing Wage Cases Opened and Wages Recovered, by Dollar Amount, by DLSE and BOFE, 1980–2001.
SOURCE: DIR.

Along with the number of inspections and citations, we also examined DLSE’s monitoring of public works projects—specifically, those covered by prevailing wage laws. Prevailing wage laws apply to construction contracts paid for, in part or in whole, with public funds. Figure 5.8 shows the number of cases opened and the dollar amount of penalties collected through prevailing wage enforcement. In 2001 an effort to step up investigations of these cases resulted in \$8,625,208 in wages for workers on public works projects, more than double the 2000 figure and a record over the previous 20 years.

The actual extent of prevailing wage violations is much higher than Figure 5.8 would indicate, because of the statute of limitations, which expires three months from the date that a city accepts a projects and signs the necessary paperwork. Many cases are not forwarded to the DLSE; rather, workers pursue private litigation. It must be noted that although the prevailing wage is of primary importance to many labor advocates and unions, it is only a small part of the DLSE’s responsibilities.

Structure and Infrastructure

In our attempts to collect the above information, several internal weaknesses—which are a challenge for any effort to evaluate the DLSE’s efforts—have surfaced.

Lack of a Centralized Database. The division lacks a centralized computer database, which would be very useful for tracking labor infractions and carrying out investigative and enforcement activities. Currently, each of the 17 DLSE regional offices throughout California relies on its own individual database, but no central system links these together. In 2000 the DIR submitted a Case Management Feasibility Study Report for the Budget Act 2000, to assess the feasibility and cost of developing an automated database system.¹⁷ The lack of a centralized database has led to several inefficiencies and challenges, such as:

- The DLSE cannot fulfill its legislative responsibilities to track offenders and assess higher penalties to repeat offenders. Thus, an employer that has multiple workplaces in different DLSE jurisdictions can be a repeat offender, but the DLSE is unable to link violations in these different jurisdictions.
- Some offices have two separate databases, and DLSE staff members must manually enter the same data into the different software programs.
- The regional offices lack the ability to merge their data or to produce statewide statistical reports. Currently, DLSE offices generate statistics from each individual database and then manually forward them to headquarters, where staff members must count and compile them by hand.
- The current computer system lacks an accounts receivable system. Thus, the DLSE cannot readily track whether a given employer has paid the assessed back wages. Obviously, this sorely limits DLSE's ability to ensure that its citations have the intended effect of penalizing noncompliance and that workers receive the wages due to them (Legislative Analyst's Office 2002).

Lack of Adequate Planning and Evaluation Tools. As noted earlier, the DLSE relies on *activity* measures, such as the number of inspections conducted, but does not collect data on *outcomes*, such as noncompliance rates, or *benchmark* measures. Furthermore, unlike Cal/OSHA—which can roughly gauge its effectiveness by analyzing the rates of occupational injuries, illnesses, and fatalities in the state—the DLSE has no reliable external data source. Efforts to develop an annual assessment model for the DLSE would be invaluable.

Currently activity measures include the number of investigations, the number of citations, the monetary value of the penalties assessed, and the monetary value of the penalties collected. These measures are not especially useful or accurate indicators of the agency's effectiveness or productivity. The inadequacy of such measures, partly a result of the agency's lack of a comprehensive database system, has hindered the agency's targeting and resource allocation process. For example, although DLSE re-

17. The Case Management System Feasibility Study Report detailed the problems that follow here.

porting sometimes identifies investigations by type (such as child labor violations or workers' compensation), the division compiles no data on whether a given inspection was programmed, a "sweep," complaint driven, or a follow-up. Without adequate outcome and benchmark measures, DLSE managers simply cannot know how their programs are working, which industries need to be targeted, and what sorts of resource deployments are necessary. Moreover, they lack the wherewithal to request and receive additional resources from the state—since they cannot demonstrate that the division is accomplishing set goals. In short, effective evaluation is a sine qua non for any agency's accountability.

Need for Better Education and Training. Currently, the DLSE's main staff training and education efforts involve dissemination of information about the agency's new responsibilities, by sending statewide memos to all DLSE regional offices and by contracting experts to train DLSE staff in their additional responsibilities.

Our research suggests that the DLSE needs a stronger focus on the education of its labor commissioners and the quality of their investigations—in two primary areas. First, when the state legislature adds new responsibilities to DLSE's plate, resources must be devoted to educating DLSE staff about the new responsibilities and any new procedures that result. And second, investigators need training in industry-specific problems and solutions. Investigators are not always adequately aware, for instance, of the violations prevalent at construction sites or how to identify them, or of how to successfully carry out an investigation in the garment industry. The DLSE is currently working with advocacy groups to identify "best practices," but for investigations to become more effective, these efforts should be expanded.

Finally, as noted above, several grassroots organizations have become more involved in informing the DLSE of violations, conducting word-of-mouth campaigns, and educating workers about their rights. For instance, Sweatshop Watch, a statewide coalition of garment worker unions and advocacy groups, conducts educational efforts and helps workers reclaim lost or unpaid wages— for a workforce that is largely undocumented and fearful of retaliatory firing. The organization is currently attempting to establish better communications with the DLSE and to consult with the division on how to enforce the laws more effectively.

TRENDS IN CAL/OSHA ENFORCEMENT, 1970 - 2000

Budget

Cal/OSHA's field enforcement budget, which has both federal and state components, has fluctuated in response to state and national political will. For instance, 1980 was the year of Cal/OSHA's greatest budget allocation, under Governor Jerry Brown. During that same year, however, Ronald Reagan was elected president, and

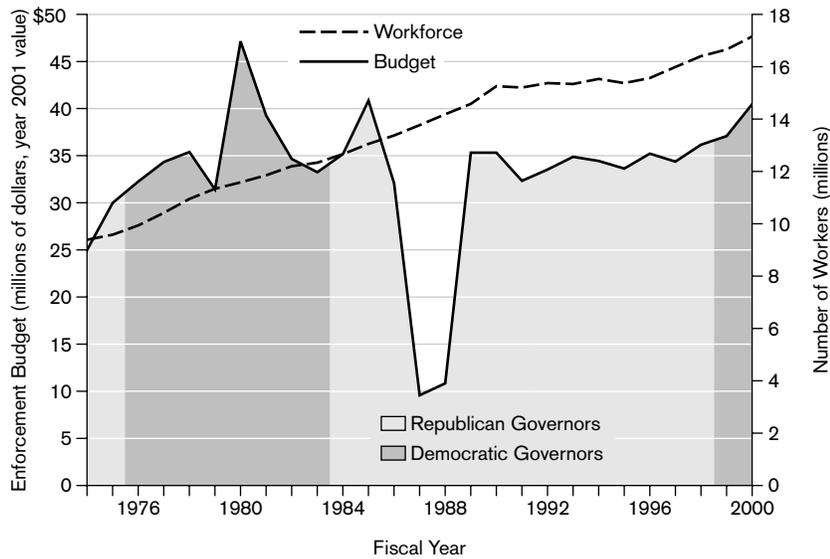


FIGURE 5.9 Cal/OSHA Field Enforcement Budget and the Number of Workers in California, Fiscal Years 1974-2000.
SOURCE: California State Budget.

the subsequent shift in national labor policy priorities affected California’s internal policies. The following year the DIR director warned that:

[. . .1981 ushered] in a new kind of reality. Massive and radical shifts in national economic policies have accompanied an assault on both the social programs and the regulatory functions of government—particularly in programs administered by DIR. Never in modern times has a state administration’s commitment to the welfare of working people been so at odds with national policy. . . . The federal-state partnership that has evolved out of the nation’s commitment in 1970 to the safety and health of American workers especially has come under a dark cloud of shifting federal policies. (California Department of Industrial Relations 1981)

These shifting policy priorities, however, had minimal impact on Cal/OSHA’s immediate budget allocation. Cal/OSHA experienced its most drastic cut in 1987 when Governor George Deukmejian ordered the disengagement of the Cal/OSHA State Plan’s provision to inspect private sector workplaces and relinquished the task to the federal Occupational Safety & Health Administration. Although federal funding for the agency’s consultation activities continued in both the public and the private sector, Cal/OSHA’s field enforcement budget plummeted from \$32 million in FY 1986/87 to \$9.6 million in 1987/88. In 1988 California voters voiced their disapproval by passing Proposition 97—an initiative that various California unions had succeeded in placing on the ballot. Proposition 97 restored the State Plan’s private sector enforcement functions and boosted Cal/OSHA’s field enforcement funding to \$35.1

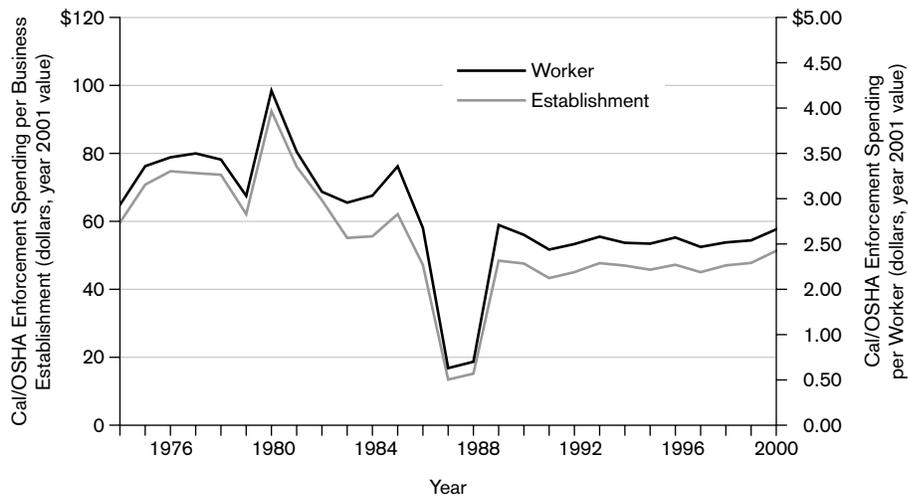


FIGURE 5.10 Ratio of Dollars Spent on Cal/OSHA Enforcement to the Number of Business Establishments and Workers in California, Fiscal Years 1974-2000.
 SOURCES: Computed from DIR, EDD, and California Budget Project (CBP) data.

million in 1989-90. Since then, funding levels have remained relatively steady and increased to \$40.3 million in FY 2000/01.

Figure 5.9 tracks changes in the budgetary allocation for Cal/OSHA’s field enforcement, along with the growing workforce in California, over the preceding 27 years. Although Cal/OSHA’s budget has slowly increased since 1998, it is still below the levels of the 1970s in terms of the numbers of workers and establishments in the state, as Figure 5.10 shows.

Staffing

In its 2001 series on Cal/OSHA, the *Orange County Register* reported that the federal government estimated—in 1980—that Cal/OSHA needed 805 inspectors to monitor health and safety violations and investigate serious injuries and deaths (Shulyakovskaya 2001). But staffing levels for inspectors have never come close to that level. In 2000, for instance, Cal/OSHA had 250 inspectors.

Staffing levels typically reflect the budgetary allocation; and indeed, there was a drastic decline in Cal/OSHA staffing in 1987 and 1988. Figure 5.11 tracks Cal/OSHA’s overall enforcement staffing (including managers and support staff as well as inspectors) since 1974. During the past 20 years, there has actually been a decrease in staffing: from an authorized 410.8 positions in FY 1980-81 to 398 authorized positions in 2000-01—again, despite the agency’s growing responsibilities and California’s much larger workforce today.

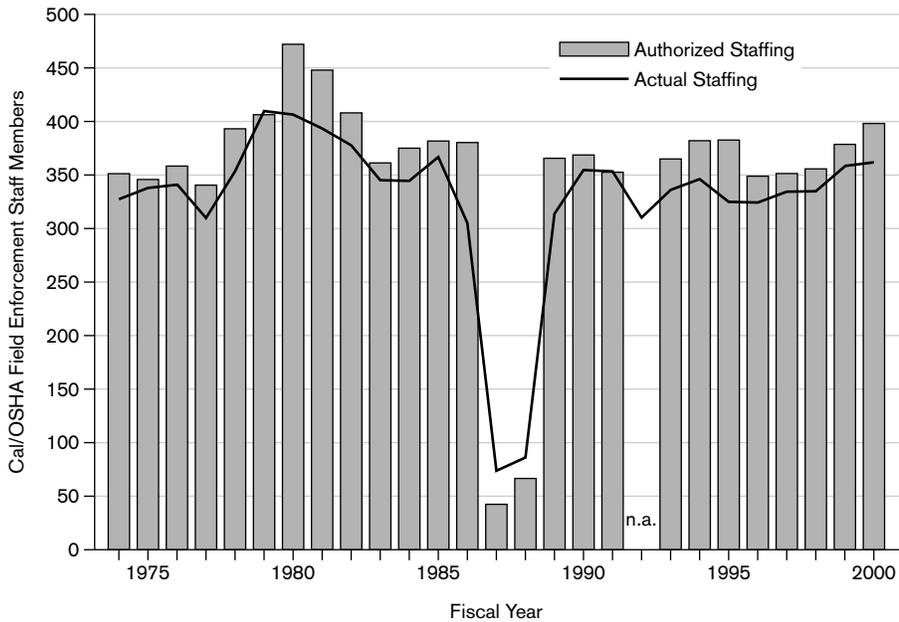


FIGURE 5.11 Cal/OSHA Enforcement Staffing, at Authorized and Actual Levels, Fiscal Years 1974-2000.
SOURCE: California State Budget.

It is not surprising, then, that Cal/OSHA staff members frequently complain of overwhelming caseloads. In November 2001 the California Senate Labor and Industrial Relations Committee held a hearing on Cal/OSHA’s response to workplace fatalities. In that hearing, Cal/OSHA was presented with a list of problems, ranging from a lack of bilingual staffing to delayed response times after worker injuries and deaths.¹⁸ Cal/OSHA representatives attributed many of the problems to staffing shortages; and they also cited noncompetitive salaries for state-employed engineers, namely, 20 percent lower than the salaries of state-contracted engineers from private consulting firms (Professional Engineers in California Government 2001).

Although Cal/OSHA’s staffing levels, like the DLSE’s, have not kept pace with the growing number of workers and workplaces in California, the agency’s staffing levels have proven far less volatile than those of the DLSE (except during the period of Cal/OSHA’s disengagement in the late 1980s). Figure 5.12 estimates the number of

18. The committee had scheduled the hearing in response to the *Orange County Register* article mentioned above, which reported that in 29 percent of Cal/OSHA’s death investigations in that county, inspectors arrived anytime from 4 to 82 days after the agency learned about a fatal accident (Shulyakovskaya 2001).

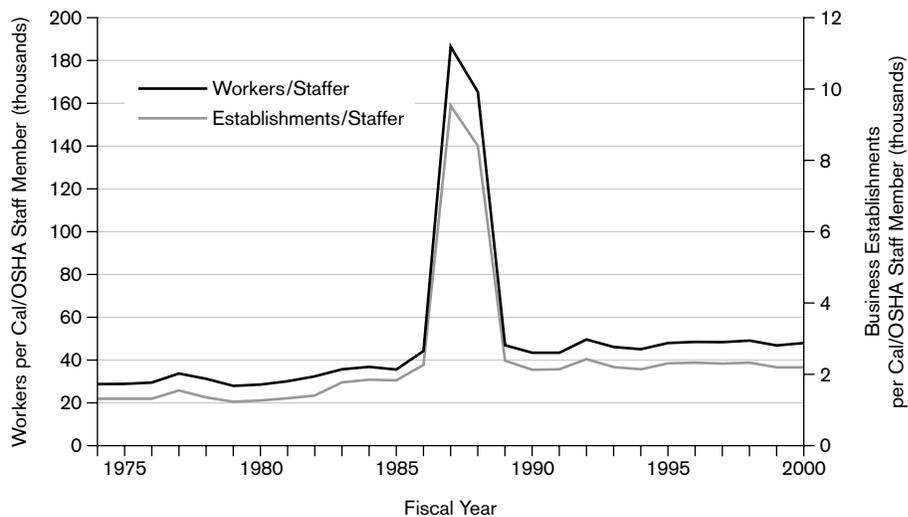


FIGURE 5.12 Actual Cal/OSHA Enforcement Staffing per Business Establishment and per Worker in California, Fiscal Years 1974–2000.

SOURCE: Computed from DIR, EDD, and California Budget Project (CBP) data.

California workers and establishments per Cal/OSHA enforcement staff member since 1974.

Inspections and Citations

Despite its relatively steady levels of budget and staffing, Cal/OSHA citations and investigations have significantly decreased since the 1970s. Figure 5.13 shows the numbers of workplace inspections and citations over time. By 2000 the number of inspections had decreased by 41 percent, and the number of citations, by 65 percent, since 1974.

The numbers of inspections and citations alone are measures of activity, not of effectiveness. Nevertheless, if employers perceive that there is a reasonable probability that they may be faced with an inspection, they may be more observant of the law. Art Carter, then Chief of Cal/OSHA under Governor Jerry Brown, emphasized this point in 1978, stating, “With only about 200 compliance personnel to cover the entire state, it is clearly impossible for Cal/OSHA to rely on enforcement alone to improve conditions in the workplace. Nor would this be desirable, for when employers take the initiative to provide safe and healthful workplaces, without the need for enforcement, everybody benefits” (*Cal/OSHA News* 1978).

The decreasing rates of inspections cast doubt on their usefulness as a deterrent, however. Further insight into the decline and its likely consequences lies in an analysis of the *types* of inspections Cal/OSHA has conducted. The agency conducts both

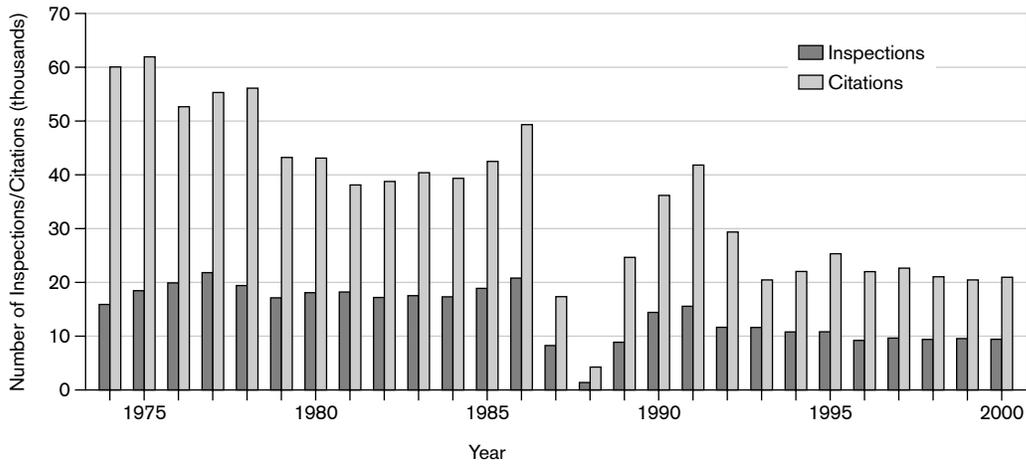


FIGURE 5.13 Cal/OSHA Inspections and Citations, 1974–2000.
SOURCE: California Division of Labor Statistics and Research.

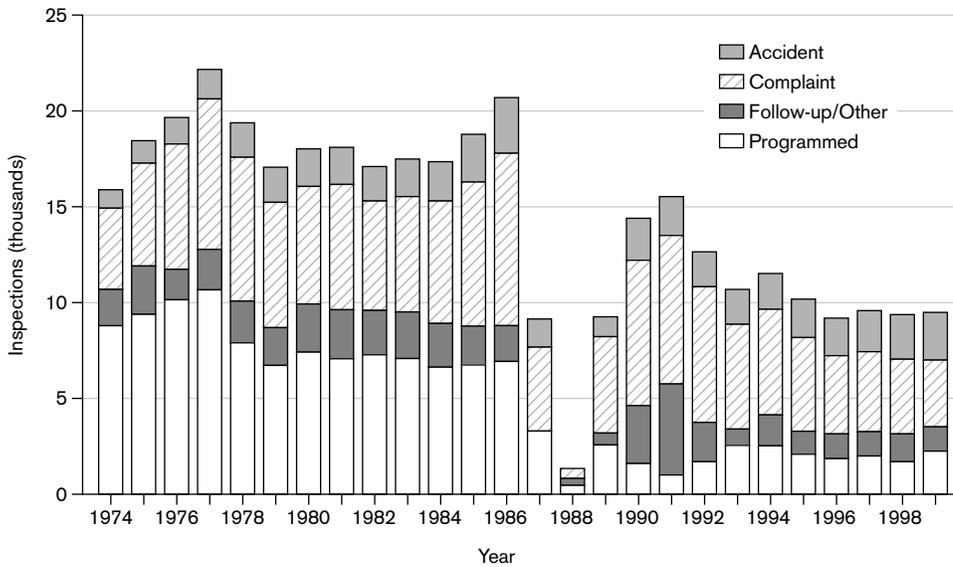


FIGURE 5.14 Cal/OSHA Inspections, Stacked by Reason for the Inspection, 1974–1999.
SOURCE: Cal/OSHA.

reactive inspections—in response to a report of a serious work-related illness or injury or a death—and programmed inspections—preventive efforts that target industries known to be “high hazard.” An increase or decrease in reactive inspections could indicate that, in California overall, greater or fewer incidents of occupational safety and health violations are taking place.

Figure 5.14 suggests that, instead, a sharp decline in programmed inspections since

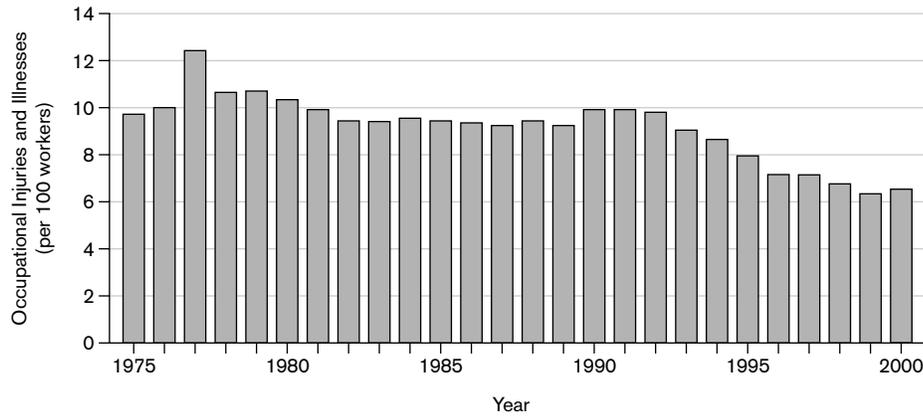


FIGURE 5.15 Occupational Illness and Injury Rates in California, 1975–2000.
 SOURCES: Computed from DIR data and California Statistical Abstract.

1987 accounts for the bulk of the drop in Cal/OSHA inspections overall. The number of investigations conducted in response to complaints or accidents, or for follow-up or other reasons, has remained relatively stable over time. To the extent that employers in hazardous industries are aware of the decline, the drop in programmed inspections suggests that they may be having a smaller deterrent effect.

External Data for Cal/OSHA

Is Cal/OSHA effective in protecting California’s workers? Unlike the DLSE, Cal/OSHA is able to gauge its effectiveness to some degree by using data that reflect the state of workers’ health and safety. Both the U.S. Bureau of Labor Statistics and the California Employment Development Department maintain databases on two such measures: the rate of occupational illnesses and injuries, and rate of occupational fatalities. The data on illnesses and injuries should be considered critically, however, because both databases rely on information in employer logs; and there are many reasons to suspect that the logs under-report the actual rates of illnesses and injuries (Brown 2001). The fatality data are more comprehensive; they are based on the *Census of Fatal Occupational Injuries*, a cooperative effort between the DIR, the U.S. Department of Labor, and the U.S. Bureau of Labor Statistics that compiles fatality data from various sources (including death certificates, workers’ compensation claims and reports, and reports by regulatory agencies, medical examiners, police, news agencies, and other nongovernmental organizations).

The available data suggest that both illness and injury rates and fatality rates have fallen since Cal/OSHA’s inception, as shown in Figures 5.15 and 5.16 and in the supporting data in Appendix 5G. Cal/OSHA may thus have had some effectiveness in regulating and protecting workers. California’s injuries and illnesses rate in 2000

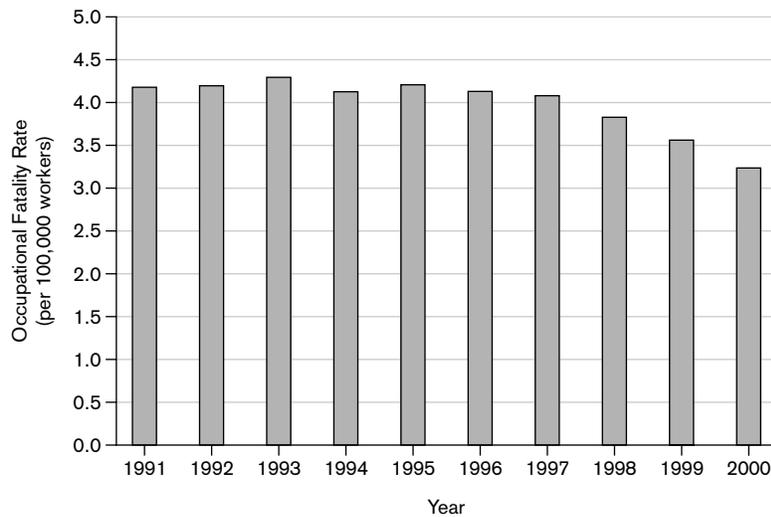


FIGURE 5.16 Occupational Fatality Rates in California, 1991–2000.
SOURCES: Computed from EDD and U.S. Bureau of Labor Statistics data.

was 37 percent lower than in 1980. Similarly, in 1974 there were 727 occupational fatalities in California, but by 2000 that number had declined to 553, or a 24 percent decrease.¹⁹

Thus, despite the relative reduction in Cal/OSHA enforcement staff, the agency may nonetheless have been effective to some degree in regulating the workplace and protecting workers. Cal/OSHA attributes the declines in occupational health and safety problems to its enforcement work and to its having shifted “some of its resources from investigating accidents and fatalities after they happen, to preventing them” (California State Legislature 2001). The latter effort, however, is not evident from the long-term decline in programmed inspections. Although the decreases in illnesses or injuries and fatalities in the state may be indicative of Cal/OSHA’s overall effectiveness in enforcing labor laws and protecting workers, there are other possible explanations as well. One such alternative involves the changing composition of the California labor market. Since 1992, while employment in manufacturing has remained stable in absolute terms, the generally less hazardous service sector gained almost 2.5 million jobs, and the retail trade sector grew by nearly 500,000 jobs (see California State Legislature 2001). More research is needed on the degree to which this compositional change can account for the declining number of illnesses, injuries, and fatalities in the state.

19. Data on California’s occupational fatalities are unavailable for the years 1986–90; data from 1974 to 1985 are based a different methodology and are thus not included in Figure 5.16. We calculated fatality rates by dividing the number of fatal accidents by the size of California’s workforce in each year.

CONCLUSION

The Davis administration has sought to strengthen the DIR and to improve labor law enforcement in California. Funding and staffing have indeed grown. The new Labor and Workforce Development Agency, which is bringing the state's various employment-related agencies together under one organizational roof, is also a promising development, at least for the long term. The consolidation, under a single Labor Secretary, may help streamline labor law enforcement and facilitate the sharing of resources and data among agencies.

Nevertheless, as we have seen, neither the Division of Labor Standards Enforcement nor Cal/OSHA has yet returned to its previous staffing levels on a number of measures, especially in relation to the state's growing workforce and number of business establishments. The recent increase in investigations within the DLSE and the continually decreasing injury and fatality rates give one hope that the agencies are turning around, but there is still a long way to go. Certainly restoring funding to more adequate levels would be an important first step, along with the centralization of resources under the new labor agency. A further critical step would be to institute and institutionalize a systematic process for gathering and analyzing data on meaningful measures of agency effectiveness, as opposed to measures of mere activity. Proper assessments of effectiveness will be essential to improvements in California's labor law enforcement in the years to come.

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APPENDIX 5A. Scope, Methodology, and Limitations of the Research

We began our work by reviewing the annual and biennial reports of the Department of Industrial Relations (DIR) over the past thirty years. We also reviewed California budget allocations for the DIR from 1970 to 2002.

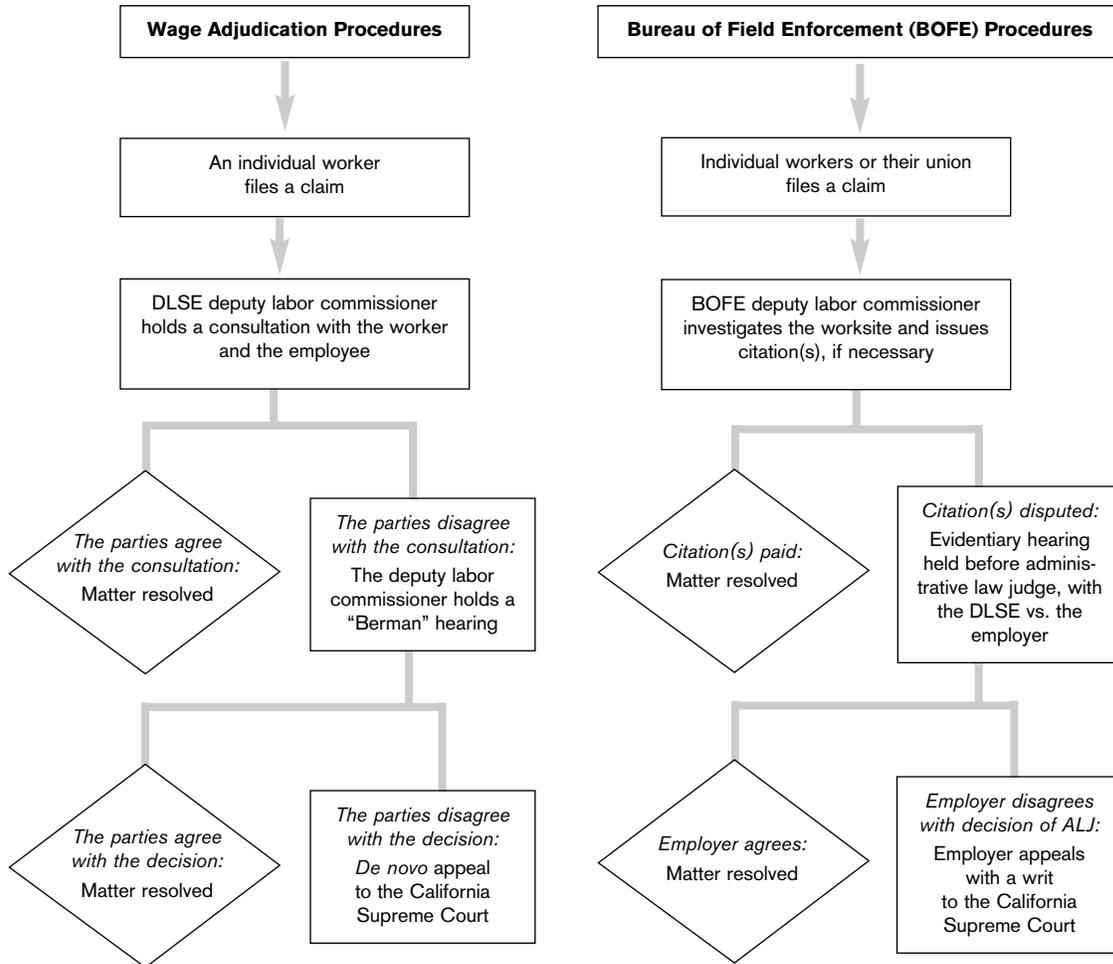
The DLSE provided us with outcome measures from their enforcement activities. These included BOFE Statistical Reports (1987-2000), Summary of Labor Standard Enforcement Statistics for Hearings, Targeted Industries Reports, and DLSE staffing levels. With these data we analyzed the composition of the enforcement staff, such as the number of employees, the ratio of DLSE employees to the numbers of establishments and workers in California, and the number of bilingual staff members. We also looked at the possible causes of variations in labor law enforcement from year to year, such as staffing and budgetary inputs, enforcement outputs (such as inspections and citations), administrative criteria for investigations, and the agency's external relationships.

We identified and interviewed more than 30 key administrators at the DIR the DLSE, as well as enforcement staff members, active stakeholder groups, and scholars, to lend perspective and institutional memory to our efforts. We strategically chose respondents, depending on their position within a given organization, to represent multiple perspectives. Our interviews with DIR and DLSE employees and management focused on their activities related to labor law enforcement, including the division's performance, strengths, challenges, and legislative mandates. We also asked about DLSE's vision and how the interviewees thought the agency could be more effective—in terms of maximizing both labor law enforcement and the efficiency with which the agency spends taxpayer dollars.

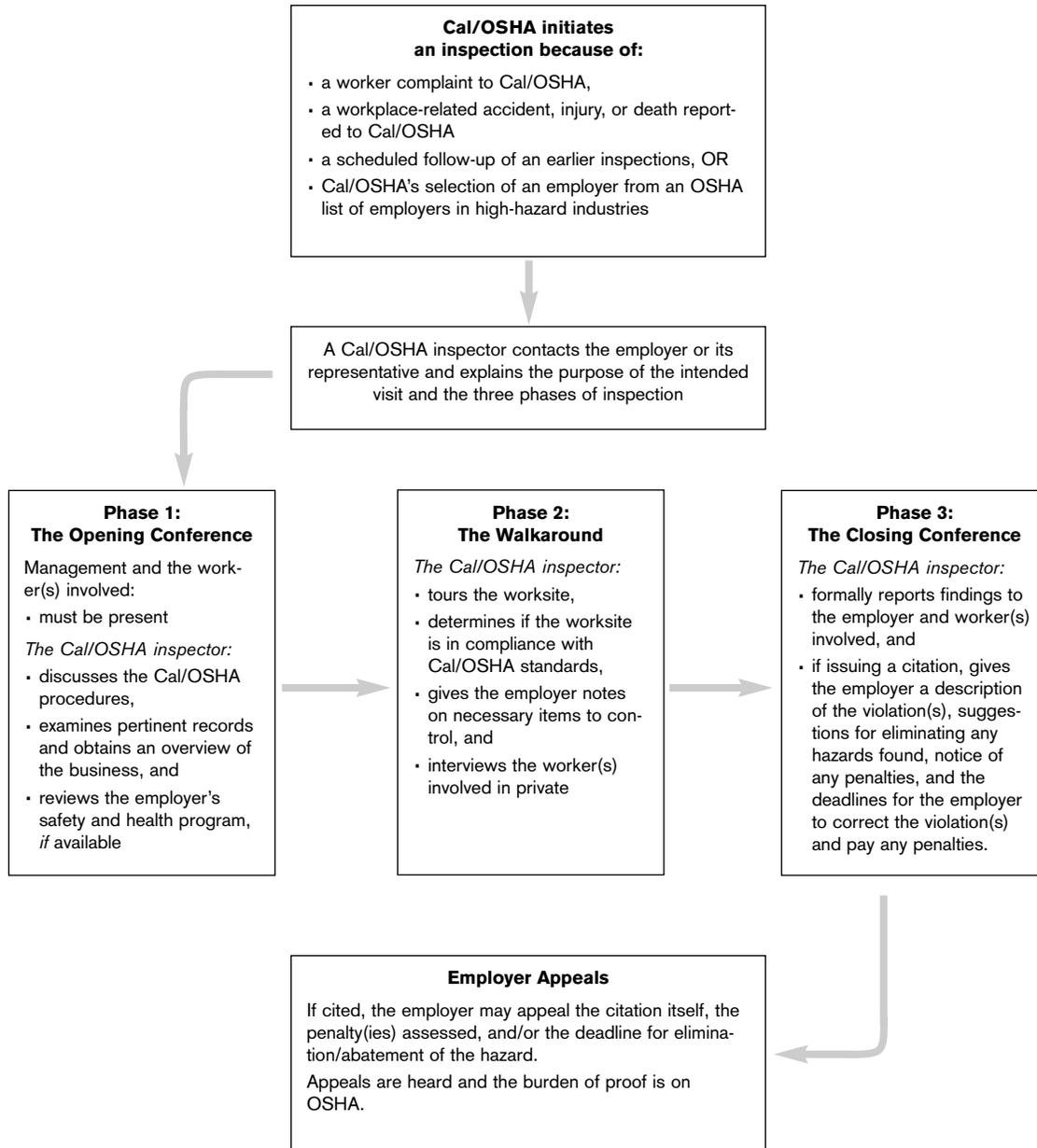
While conducting our research, we encountered several hurdles to a comprehensive analysis. Barriers to data collection included:

- *Changes in Methodology.* Longitudinal data was often difficult to collect or analyze because over the years DLSE changed the kinds of data collected or the methodology used to collect or quantify the data.
- *Changes in Organizational Structure.* As the enforcement bodies changed and evolved, policies and procedures for data collection also changed. This was a specific issue for the DLSE when the Bureau of Field Enforcement (BOFE) was established in 1983 as a new branch within the DLSE, which subsequently hindered longitudinal analysis.
- *Time Lags.* The specific effects of policies, budgetary changes, and legislation are confounded by the time lag it takes the agencies to implement and become effective at a policy. Therefore, the data might not reflect these changes accurately within a given year.
- *Interview Sampling.* We identified many of our interview subjects outside the DLSE and DIR through newspaper articles, publications, hearing agendas, and word of mouth. We strategically chose respondents, depending on their position within their organization, to represent multiple perspectives. This sampling method is often referred to as snowball sampling, and some statisticians considered it an inaccurate or biased reflection of the population.

APPENDIX 5B. DLSE Enforcement Procedures



APPENDIX 5C. CAL/OSHA ENFORCEMENT PROCEDURES



APPENDIX 5D. DLSE Data on Budgets, Staffing, Enforcement Actions, and Numbers of Establishments and Workers, 1970 - 2000

<i>Year</i>	<i>Budget (in 000s)</i>	<i>DLSE Staffing Authorized</i>	<i>DLSE Actual Staffing</i>	<i>BOFE No. of in- spections</i>	<i>BOFE Citations Issued</i>	<i>BOFE Penalties Assessed</i>	<i>BOFE Penalties Collected</i>	<i>Number of Establishments in California</i>	<i>Workforce in California</i>
1970	\$16,756	254.1	252.4					345,263	8,167,000
1971	\$15,342	254.4	262.8					344,206	8,407,000
1972	\$16,618	n.a.d	279.7					349,096	8,653,000
1973	\$18,720	d	277.9					358,313	8,910,000
1974	\$18,758	d	297.3					421,068	9,317,000
1975	\$19,990	300.0	332.4					426,537	9,539,000
1976	\$22,416	318.5	389.9					433,806	9,896,000
1977	\$26,880	483.5	421.8					465,944	10,367,000
1978	\$28,080	455.8	440.7					480,846	10,911,000
1979	\$30,379	450.8	420.4					507,350	11,268,000
1980	\$32,150	440.7	422.2					512,902	11,536,000
1981	\$30,997	456.5	440.8		2,043 ^c		\$952,374 ^c	519,413	11,811,000
1982	\$29,888	431.0	390.5		2,613		\$1,133,173	526,168	12,177,000
1983	\$29,329	431.0	390.5		2,520		\$1,065,397	610,121	12,281,000
1984	\$31,384	423.5	399.4		2,448		\$991,385	632,841	12,611,000
1985	\$33,698	419.2	417.4		4,254		\$1,876,461	662,744	12,981,000
1986	\$32,699	414.3	399.1		3,856		\$1,796,352	683,221	13,332,000
1987	\$33,555	401.4	395.5	8,448 ^b	4,273		\$1,874,898	703,258	13,738,000
1988	\$34,985	415.2	419.4	12,282	5,463	\$5,423,146 ^a	\$1,379,474	716,949	14,132,000
1989	\$34,594	429.1	396.6	12,008	4,935	\$6,159,757	\$1,882,207	733,755	14,517,000

APPENDIX 5D (continued)

Year	Budget (in 000s)	DLSE Staffing Authorized	DLSE Actual Staffing	BOFE No. of in- spections	BOFE Citations Issued	BOFE Penalties Assessed	BOFE Penalties Collected	Number of Establishments in California	Workforce in California
1990	\$33,693	411.2	385.4	8,652	4,122	\$7,137,629	\$1,665,686	745,686	15,193,000
1991	\$30,698	347.9	365.3	6,967	2,900	\$14,203,167	\$2,450,149	747,688	15,131,000
1992	\$26,721	327.0	320.6	10,417	2,003	\$11,316,060	\$2,055,102	746,789	15,307,000
1993	\$27,088	343.0	301.5	11,138	3,746	\$14,760,554	\$1,999,869	736,691	15,259,000
1994	\$27,266	355.3	300.2	8,426	3,834	\$16,457,921	\$2,524,387	735,570	15,462,000
1995	\$28,286	346.8	306.7	7,784	2,949	\$21,404,381	\$2,873,163	740,583	15,312,000
1996	\$30,183	333.5	314.0	5,098	2,966	\$17,014,236	\$2,861,599	750,478	15,512,000
1997	\$28,945	329.7	320.2	5,689	3,207	\$18,710,519	\$3,875,338	766,009	15,947,000
1998	\$30,080	345.5	324.1	4,876	2,494	\$12,247,843	\$3,160,707	773,925	16,337,000
1999	\$37,850	417.1	377.4	5,299	2,461	\$10,278,237	\$4,245,512	784,935	16,597,000
2000	\$41,088	469.1	419.0	5,892	2,279	\$10,748,593	\$3,946,677	n.a. ^a	17,091,000

SOURCES: DLSE, California Budget, and County Business Patterns.

^a Reporting category began in 1988.

^b Reporting category began in 1987.

^c Reporting category began in 1980.

APPENDIX 5E. Citations issued by DLSE-BOFE, 1981 - 2000

Year	Workers' Compensation	Child Labor Penalties	Cash Pay Penalties	Garment Industry Penalties	Unlicensed Contractor Penalties	Minimum Wage Penalties	Overtime Citations	Total Citations
1981	681	760	356	69 ^a	177			2,043
1982	775	578	411	480	369			2,613
1983	625	394	482	532	487			2,520
1984	599	609	463	353	424			2,448
1985	1,124	989	691	893	557			4,254
1986	1,063	965	592	817	419			3,856
1987	1,330	1,178	642	645	478			4,273
1988	1,873	1,340	722	1,040	488	134 ^b		5,463
1989	1,776	963	629	1,234	333	237		4,935
1990	1,415	833	623	954	297	132		4,122
1991	1,096	440	456	748	160	54		2,900
1992	1,054	220	281	361	56	31		2,003
1993	2,844	251	355	247	16	33		3,746
1994	2,550	256	410	553	29	36		3,834
1995	1,406	310	478	676 ^c	38	41		2,949
1996	1,357	293	595	580 ^c	64	77		2,966
1997	1,381	256	661	740 ^c	73	96		3,207
1998	1,099	213	553	493 ^c	34	102		2,494
1999	1,136	299	453	449 ^c	72	52		2,461
2000	937	355	384	432 ^c	38	55	78 ^d	2,279

SOURCE: California Department of Labor Standards Enforcement.

^aThese data are for six months; the law went into effect on July 1, 1981.

^bThe reporting category began in 1988.

^cThe DLSE terms the garment industry penalties "garment registration and record keeping."

^dThe reporting category began in 2000.

APPENDIX 5F. CAL/OSHA Data on Budgets, Staffing, and Enforcement Actions, 1974 - 2000

Year	Cal/OSHA Budget (in 000s)	Staff Authorized	Staff Filled	Inspections	Violations/ Citations issued	Penalties Collected	Penalties Assessed
1974	\$ 24,778	349.6	326.8	15,789	60,051		\$4,319,743
1975	\$ 29,992	345.3	336.4	18,321	62,000		\$3,886,039
1976	\$ 32,184	357.0	339.2	19,598	52,572		\$4,095,000
1977	\$ 34,214	339.2	309.3	21,760	55,234	\$2,185,906	\$5,224,268
1978	\$ 35,263	392.7	352.4	19,306	55,961	\$2,378,748	\$5,297,882
1979	\$ 31,276	405.3	410.8	16,938	43,017	\$2,020,088	\$4,141,818
1980	\$ 47,064	410.8	405.3	17,938	42,907	\$1,960,335	\$3,682,624
1981	\$ 39,148	447.1	392.5	17,995	37,979	\$1,781,470	\$3,059,373
1982	\$ 34,525	407.3	376.5	17,024	38,600	\$1,616,347	\$2,619,996
1983	\$ 33,156	360.0	344.3	17,348	40,242	\$1,622,880	\$2,466,373
1984	\$ 35,013	374.3	343.1	17,226	39,253	\$1,563,848	\$2,291,147
1985	\$ 40,776	380.6	366.2	18,694	42,337	\$2,348,120	\$3,334,656
1986	\$ 32,038	379.3	304.5	20,691	49,229	\$2,781,687	\$3,940,723
1987	\$ 9,558	42.1	73.7	8,194	17,231	\$9,15,870 ^b	\$1,261,279 ^b
1988	\$ 10,842	66.3	85.3	1,339	4,099	^a	^a
1989	\$ 35,100	364.6	312.8	8,766	24,520	^c	^c
1990	\$ 35,073	367.6	352.4	14,287	36,109		\$48,386
1991	\$ 32,205	351.5	^a	15,433	41,596		\$53,659
1992	\$ 33,374		310.4	11,566 ^d	29,259		\$12,222,000
1993	\$ 34,730	364.4	335	11,566 ^d	20,328		\$11,931,000

1994	\$ 34,214	381.0	346.1	10,708 ^d	21,803	\$16,680,000
1995	\$ 33,511	382.9	323.8	10,708 ^d	25,236	\$16,402,000
1996	\$ 35,005	348.7	323.8	9,103	21,821	\$12,760,000
1997	\$ 34,207	350.5	333.5	9,531	22,505	\$12,430,000
1998	\$ 35,961	355.2	333.6	9,322	20,889	\$10,586,541
1999	\$ 36,969	377.3	358.5	9,437	20,280	\$10,397,495
2000	\$ 40,295	398.0	361.5	9,298	20,878	

SOURCE: California Department of Industrial Relations, Division of Labor Statistics and Research.

^a Data are unavailable.

^b Data are for the first six months of 1987.

^c Data are unavailable because of loss of computer.

^d Estimated based on DIR biennial reports.

**APPENDIX 5G. CAL/OSHA External Data on Occupational Fatalities,
Injuries, and Illnesses, 1974-2000**

<i>Year</i>	<i>Occupational Fatalities</i>	<i>Fatality Rate</i>	<i>Injuries & Illnesses (per 100 workers)</i>
1974			10.9
1975			9.7
1976			10.0
1977			12.4
1978			10.6
1979			10.7
1980			10.3
1981			9.9
1982			9.4
1983			9.4
1984			9.5
1985			9.4
1986			9.3
1987			9.2
1988			9.4
1989			9.2
1990			9.9
1991	634	4.19	9.9
1992	644	4.21	9.8
1993	657	4.31	9.0
1994	639	4.13	8.6
1995	646	4.22	7.9
1996	641	4.13	7.1
1997	651	4.08	7.1
1998	626	3.83	6.7
1999	591	3.56	6.3
2000	553	3.24	6.5

SOURCE: California Department of Industrial Relations, Division of Labor Statistics and Research.

APPENDIX 5H. Labor Law Enforcement Mandates in Recently Enacted California Legislation, 1997–2001

The following summaries of California legislation are based on listings in California State Legislature (2001). The names in parentheses below are the Senate or Assembly sponsors of the bills.

2001

SB 1125 (BURTON), CHAPTER 147, STATUTES OF 2001, SIGNED. Makes farm labor contractor's wage surety bonds and a portion of their license fees payable for damages arising from labor law violations. AB 423 (Hertzberg), Chapter 157, Statutes of 2001, created specialized farm labor enforcement units, called for additional verification of farm labor contractor licenses, and enhanced criminal penalties for failure to pay wages.

SB 588 (BURTON), CHAPTER 804, STATUTES OF 2001, SIGNED. Permits federally recognized joint labor-management committees' access to certified payrolls on public works projects, and permits such committees to seek civil court action to remedy prevailing-wage violations.

AB 1025 (FROMMER), CHAPTER 821, STATUTES OF 2001, SIGNED. Requires employers to provide reasonable unpaid break time and to make reasonable efforts to provide the use of an appropriate room for an employee to express breast milk for an infant.

AB 1675 (KORETZ), CHAPTER 948, STATUTES OF 2001, SIGNED. Establishes requirements related to wages, hours, and working conditions for sheepherders.

AB 1069 (KORETZ), CHAPTER 134, STATUTES OF 2001, SIGNED. Permits the state labor commissioner to reconsider a formerly dismissed discrimination complaint if the U.S. Department of Labor determines the complaint had merit.

2000

AB 1646 (STEINBERG), CHAPTER 954, STATUTES OF 2000, SIGNED. Streamlines the procedures for reviewing a decision to withhold funds from a contractor because of the contractor's failure to pay a prevailing wage on a public works project; revises the procedures for challenging a decision to withhold funds from a contractor because of the contractor's failure to pay a prevailing wage on a public works contract; and makes a contractor and subcontractor expressly jointly and severally liable for all amounts due (including underpaid wages and penalties), pursuant to a final order of the state labor commissioner for a violation of the prevailing-wage law.

AB 2509 (STEINBERG), CHAPTER 876, STATUTES OF 2000, SIGNED. Makes various changes to the Labor Code relative to rights, remedies, and procedures; streamlines and alters many enforcement and administrative procedures of wage-and-hour laws before the state labor commissioner and the courts; and increases civil penalties and damages for violations.

SB 1785 (FIGUEROA), CHAPTER 318, STATUTES OF 2000, SIGNED. Allows the administrative director of the Division of Workers' Compensation to use nationally recognized standards in the development the workers' compensation information systems.

1999

SB 26 (ESCUTIA), CHAPTER 222 / STATUTES OF 1999, SIGNED. Declares that a finding of age discrimination may be made when salary differences are used to differentiate among employees to determine who will be terminated, if using salary differences adversely affects older workers as a group.¹

AB 1395 (CORREA), CHAPTER 302, STATUTES OF 1999, SIGNED. Requires the Division of Labor Standards Enforcement to protect the confidentiality of any employee who reports a violation regarding a public works project.

AB 555 (REYES), CHAPTER 556, STATUTES OF 1999, SIGNED. Requires the state labor commissioner to provide the California Highway Patrol with a list of all registered farm labor vehicles on a quarterly basis; extends the inspection liability for farm labor vehicles to vehicle owners and farm labor contractors; and increases fines for violations of inspection requirements.

SB 951 (HAYDEN AND JOHNSTON), CHAPTER 673, STATUTES OF 1999, SIGNED. Expands the protections provided to employees who disclose improper governmental activities to the state auditor to apply to state employees who disclose improper governmental activities to anyone or who refuse to obey an illegal order.

AB 613 (WILDMAN), CHAPTER 299 / STATUTES OF 1999, SIGNED. Requires the inclusion of the janitorial and building maintenance industry in state efforts to enforce tax and labor laws.

1998

SB 1514 (SOLIS), CHAPTER 276, STATUTES OF 1998, SIGNED. Imposes civil penalties on garment manufacturers for specific violations relating to workers, registration, and records.

1997

SB 1071 (POLANCO AND LOCKYER), CHAPTER 92, STATUTES OF 1997, SIGNED. Clarifies that agricultural workers who voluntarily quit and are not paid on time are entitled to receive penalty payments from their employers. Wages owed agricultural employees are due and payable twice monthly at designated times. When an employee voluntarily quits, he or she must be paid within 72 hours.

AB 1448 (ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT), CHAPTER 35, STATUTES OF 1997, SIGNED. Increases from \$100 to \$250 the civil penalty imposed on an employer for violation of the minimum wage requirement.

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1. Older workers, defined by federal law as those over the age of 40, are increasing as a percentage of the workforce. As baby boomers age, they are healthier and are working longer. The U.S. Department of Labor predicts that by the year 2005, over half of all workers will be over the age of 40.