

LAW AND LEGISLATION COMMITTEE MINUTES

RECEIVED
CITY CLERKS OFFICE
CITY OF SACRAMENTO

Thursday, February 19, 1987
LOCATION: City Council Chambers
915 I Street, Second Floor
Sacramento, California

MAR 10 9 15 AM '87

The meeting was called to order at the hour of 2:05 p.m. by chairperson Terry Kastanis, and roll was answered as follows:

PRESENT: Committee Members Shore, Kastanis, Bradley

ABSENT: Committee Member Pope*

* Committee Member Pope arrived at 2:10 p.m.

COMMITTEE ACTION SHEET

2. CONTINUED FROM PREVIOUS PAGE

VOTING RECORD: MOVE: SHORE; SECONDED: BRADLEY
AYES: UNANIMOUS
ABSENT: POPE

MINUTES:

No discussion on this matter.

A motion was made by Dave Shore to support staff recommendation to oppose AB 13. Committee Member Charles Bradley seconded this motion, and it was carried as noted above.

3. Resolution against the defunding of the CAL-OSHA program and its impact on the citizens of Sacramento.

RECOMMENDATION OF STAFF: RECOMMEND SUPPORT

REPORTS BACK: NONE

COMMITTEE ACTION: RECOMMENDED SUPPORT

VOTING RECORD: MOVE: SHORE; SECONDED: BRADLEY
AYES: UNANIMOUS
ABSENT: POPE

MINUTES:

John Tomko of the City's Public Works Department gave an overview of this matter. He also passed out a revised resolution, which he explained was the same as the resolution in the agenda packet, but was condensed to a one-page resolution with a lengthy fact sheet. He said that the purpose for the revised resolution was to eliminate the unnecessary explanatory language in the first resolution. A copy of the revised resolution is attached hereto.

Rick Martinez of the Sacramento Firefighters spoke in support of this resolution. He brought to the attention of the Committee the fact that this \$8,000,000.00 cut in the CAL-OSHA budget represents only 1/10th of 1% of the entire State budget.

Steve Sanchez of the Environmental Council of Sacramento, Inc. (ECOS) passed out a letter (copy attached), and spoke in support of this resolution. He said it was important for Sacramento to

ITEM CONTINUED TO NEXT PAGE

COMMITTEE ACTION SHEET

3. CONTINUED FROM PREVIOUS PAGE

oppose CAL-OSHA budget cuts because so much high tech manufacture and development uses are projected here in Sacramento over the next 20 years; therefore, we need stronger toxic enforcement laws in the future.

There was some discussion between the Council Committee Members and Jim Jackson, City Attorney, and it was agreed that this item should go before the full Council.

Dave Shore moved to support the resolution against the defunding of the CAL-OSHA program and present this item to the full Council. Charles Bradley seconded the motion, and it was carried as noted above.

4. Report back from City Attorney's Office regarding parking of vehicles on private lawns.

RECOMMENDATION OF STAFF: RECOMMEND APPROVAL OF REPORT

REPORTS BACK: PRESENT AN AMENDED ORDINANCE TO COMMITTEE AND FULL COUNCIL

COMMITTEE ACTION: APPROVED REPORT

VOTING RECORD: MOVED: SHORE; SECONDED: POPE
AYES: UNANIMOUS

MINUTES:

Tamara L. Milligan-Harmon, Deputy City Attorney, presented her staff report on this matter. She stated that the situation we now have is that any enforcement action must be under our Zoning Ordinance. She explained that Sacramento City Code Section 25.150 will be revised and submitted to the Law and Legislation Committee, so that the City could cite nuisances as we now do parking violations.

Committee Member Doug Pope arrived at 2:19 p.m.

Attorney Milligan-Harmon continued by explaining that they are not talking about citing people who park on their unimproved driveways which were legal at the time their homes were built; these as treated as grandfathered in.

ITEM CONTINUED TO NEXT PAGE

RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

WHEREAS, California is allowed, under Federal laws to operate a worker health and safety program (CalOSHA) because it has demonstrated the ability to operate a program at least as effective as the Federal OSHA program;

WHEREAS, states are permitted to establish more stringent worker health and safety programs than federal minimum requirements;

WHEREAS, California has operated worker health and safety programs for almost 75 years, long predating federal laws adopted in 1970;

WHEREAS, California's worker health and safety program provides stricter protection than the Federal OSHA program, especially in the area of toxic substances and enforcement activity;

WHEREAS, ineffective worker health and safety programs cause adverse economic consequences for workers and society, through increased workers compensation, private insurance, social security and welfare expenditures;

WHEREAS, worker health and safety programs benefit the public health through the early identification and control of toxic chemicals;

WHEREAS, the Sacramento Safety program has specifically benefited City employees through the use of information about toxic substances which employers are required to generate under State but not Federal law;

WHEREAS, Governor George Deukmejian's proposed 1987-1988 budget would reduce the CalOSHA program by 362 personnel years, at a savings to the State of only \$8 million dollars out of a \$39 billion total budget, and a loss of \$14 million in Federal funds;

WHEREAS, the Governor's proposal would allow California employers to comply with weaker Federal worker health and safety standards and would eliminate technical programs which are necessary for the implementation of public health and safety programs, including Proposition 65;

THEREFORE, It is resolved that the City of Sacramento calls on the California Legislative to provide adequate funding in the 1987/1988 State budget to operate an effective California worker health and safety program; and

It is further resolved that the City of Sacramento urgently requests the Governor to reconsider his actions in this regard.

**BACKGROUND REPORT REGARDING THE PROPOSED
DEFUNDING OF THE CALOSHA PROGRAM AND ITS
IMPACT ON THE CITIZENS OF SACRAMENTO**

**PREPARED BY: Mike Picker for
the Sacramento City Toxic Substances Commission**

INTRODUCTION

California is allowed, under Federal laws, to operate a worker health and safety program because it has demonstrated the ability and willingness to operate a program at least as effective as the Federal OSHA program. Such agencies, with "state plans" certified as providing acceptable staff, resources and activities, may adopt more stringent standards than provided under Federal regulations. These states are also exempted from certain Federal preemptions, including the area of worker right to know. If the goals of a state plan are not met, Federal OSHA can revoke the state's certification and operate a worker health and safety program in that state.

The State of California has operated worker health and safety programs for almost 75 years, predating Federal laws adopted in 1970. The stringent protections developed by this state-run program have long benefitted the health and welfare of the citizens of Sacramento.

Governor George Deukmejian's proposed 1987-88 budget calls for a reduction of 362 personnel years in the CalOSHA budget. The cuts in worker health and safety programs total around \$8 million dollars from a record state budget of \$39 billion. The Federal government also supports CalOSHA with about \$14 million annually.

CALIFORNIA ENFORCES STRICTER STANDARDS

California's worker health and safety program provides stricter and wider protection than the Federal OSHA program:

1. CalOSHA regulates over 160 toxic chemicals not covered by Federal standards. Sacramento, and California industry in general, is highly dynamic and innovative. Many exotic chemicals are used here that are not widely disseminated nationally. Maintaining a state program allows California the ability to set priorities to meet its own particular needs. Some 35 of 160 of these chemicals are pesticides, for example. According to Ron Rinaldi, the state's Director of the Department of Industrial Relations, all California standards become null and void if the Federal government takes over.
2. California operates several unique worker health programs, including a major toxicological review, consultation and general education resource in the Hazard Evaluation System and Information Service (HESIS). Also cut is the CalOSHA Special Studies Unit which conducts industry wide studies to determine the feasibility and effectiveness of control measures. The Right to Know Unit maintains a data base of Material Safety Data Sheets (MSDS's). The Federal Hazards Communications standard does not even require manufacturers to submit MSDS's for review for adequacy.

3. While less than adequate, California still has a more effective record of enforcement than Federal OSHA. CalOSHA operates a Bureau of Investigations, which has worked on at least one dozen cases with Los Angeles District Attorney's office to obtain successful criminal prosecution. Even when this unit did not refer cases to the DA, it assisted. According to a source in the District Attorney's office, only one of 12 cases could have been prosecuted without CalOSHA participation. In comparison, the entire Federal OSHA has referred 27 cases to the Justice Department since 1970. Since the beginning of the Reagan administration, only 2 referrals have been made. None of these cases resulted in a criminal penalty.

In a glaring example of the poor quality of Federal enforcement, an Illinois local prosecutor obtained a murder conviction against the owners of a company that had been cited only months before by Federal OSHA for a lesser violation of failing to report workplace related illnesses. Had Federal enforcement officials followed up by visiting the factory, they would have prevented needless death. Furthermore, CalOSHA inspectors can "yellow tag" imminent hazards in the workplace. Under Federal OSHA, a time consuming delay occurs while a court order is sought.

THE CALOSHA PROGRAM OFFER BENEFITS TO PUBLIC HEALTH

Threats to the health of workers are a vital concern to Sacramentans, not only morally, but economically. The Commission on Economic Development cites 2,500 cancer deaths per year in California as a result of toxics - but most of these will occur as a result of workplace exposure to asbestos. As Sacramento industry innovates, more exotic toxins are entering into our workplaces. More serious injuries and illnesses will occur. Where businesses try to obtain a business advantage through cutting safety and health, workers will suffer more. Inadequate enforcement and standards favor unethical practices. Furthermore, less than 2% of all those suffering from occupational disease are compensated by the Workers Compensation system. Instead, these citizens receive support from private insurance, Social Security and Welfare.

Many community toxics threats are caused by an advanced problem inside the workplace that's getting out:

1. CalOSHA budget cuts will likely hinder implementation of Proposition 65. The Governor's newly named Prop 65 coordinator is Tom Warriner: despite his assurances at a hearing held by Senator Torres on January 15, it is not certain that the Federal preemption of state worker right to know laws (in non-state plan states) will not affect references to the Labor Code in Proposition 65.
2. Budget cuts in HESIS will cause the loss of the toxicologists most qualified to guide the development of the lists of substances covered by Prop 65. Several of the staff in this unit participated in the development of the state's carcinogen policy. Other units in state government, such as the Community Toxicology Evaluation Unit, do not have staff with the experience of scope to develop the corresponding reproductive toxins policy needed to make Prop 65 work.

3. Units such as HESIS, which will be completely cut under this budget, provide services that impact or are directly useful to communities, as well as workers. For example, HESIS issues Hazard Alerts when reviews of literature on chemicals shows new data that may warrant new concerns or actions on a chemical. In 1982, HESIS reviewed some 50 studies on the solvent TCE, concluding that both community and workplace standards are set too high for health protection.
4. HESIS responds to inquiries regarding chronic toxics exposures from employers, employees, local officials and community residents. HESIS received 8,000 such calls; last year the agency received an increase in calls of 40%. Most were from workers and employers, and 1/3 concerned exposures to pregnant women. Through this phone service, HESIS is able to provide advice, counsel workers whose minor exposure to a toxic chemical may lead them to unnecessary worry, and provides training in recognizing occupational and environmental disease to employers, employees, and such groups as the American Lung Association and the American Cancer Society. HESIS also aids other state programs, including standards development.

Chemicals don't stop at the plant gate. The first, and potentially most effective prevention program for community exposures to toxic chemicals comes from ensuring a safe workplace. A workplace where workers are unnecessarily and improperly exposed to toxic chemicals will likely eventually contaminate the community around the plant. A well organized, targeted inspection and enforcement program will do much to prevent that.

1. The end of the California worker right to know program means that many employees using toxics in industries not covered by the Federal Hazards Communication Standard (it currently applies only to manufacturing) will be less likely to be properly trained to handle those materials. This increases dramatically the potential of Bhopal type releases and improper disposal of hazardous materials. Worker right to know is the only legislatively mandated program for toxics education, and potentially an extremely effective tool.
2. Federal preemption of state standards will most likely have an impact on California legislation designed to limit community exposure. Because the best toxicological information available is that derived from occupational exposures, some the key lists of toxics required in the state are developed in the Labor Code. One of these is the "Director's List of Hazardous Substances," contained in the Hazardous Substances Information and Training Act of 1980 (Worker Right to Know). This list is specifically referenced in the City's Hazardous Materials Disclosure Ordinance. State laws, such as AB 1362 (underground tank storage) and AB 2185 (community right to know and emergency preparedness), both of which are implemented by the City of Sacramento will be weakened by this preemption.

CONCLUSION

The City of Sacramento should take immediate action to communicate its support for the CalOSHA program to the Governor and Legislative.



Environmental Council of Sacramento, Inc.

February 19, 1987

Sacramento City Council
915 I Street
Sacramento, CA 95814

Member Organizations

American Lung
Association of
Sacramento —
Emigrant Trails
Audubon Society
California Native
Plant Society,
Sacramento
Valley Chapter
California Park and
Recreation
Society, District 11
Capitol Bicycle
Commuters
Association
League of Women Voters
of Sacramento
Modern Transit Society of
Sacramento
United Parenthood
Association of
Sacramento
Sacramento County
Farm Bureau
Sacramento Old City
Association
Sacramento Valley
Bicycle Advocates
Save the American River
Association
Sierra Club, Mother Lode
Chapter
South Natomas
Community
Association
Zero Population Growth

Councilmembers:

The Environmental Council of Sacramento is gravely concerned with the impact that the proposed gutting of Cal-OSHA will have on public health and workplace safety in Sacramento. As you know, the Governor has targeted Cal-OSHA for severe cutbacks, eliminating one of the oldest and most effective worker safety programs in the nation. This unwise proposal must be challenged.

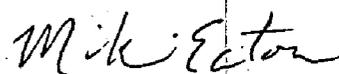
ECOS joins with workers and enlightened employers in calling for the maintenance of a strong Cal-OSHA program. As an environmental coalition, ECOS is especially concerned with the threat of toxic exposure that the Cal-OSHA cutback would create. Cal-OSHA is our first line of defense against toxic contamination in the workplace, which preserves the health and safety of workers, their families, and neighboring communities. The right-to-know provisions of the Cal-OSHA program, the regulation of 160 toxic chemicals not subject to federal controls, the investigation and enforcement of regulations regarding workplace hazards, and the analysis of samples and data performed by Cal-OSHA for local health programs all would be threatened by the Governor's action.

In the long run, the impact could be even more serious. Cal-OSHA research is instrumental in identifying and assessing the danger of toxic chemicals. Toxics are first encountered in the workplace, and then can become a hazard to the community at large through accidental discharge or inappropriate waste disposal methods. Without Cal-OSHA, our understanding of the toxic hazards we face will be severely hampered. This

will be especially detrimental in the implementation of Proposition 65. This is bad news for Sacramento, given the growing importance of high-technology development in our local economy. Will we be vulnerable to a toxic future as a result of the loss of research and information supplied by Cal-OSHA?

ECOS calls on the City and County of Sacramento to join in the effort to preserve Cal-OSHA. The legislature and the Governor must hear from local governments as well as the public that we do not intend for the high standards of public health and job safety to be compromised. We urge you to adopt a resolution in support of full funding for the vital health and safety programs provided by Cal-OSHA.

Sincerely,



Michael Eaton
President