



SB 616 (Marks). Existing law requires banks and other financial institutions to maintain certain information concerning charges and interest on accounts, and to make that information available to the public. Existing law also requires banks and other financial institutions to furnish depositors with statements concerning charges and interest on accounts. As amended May 4, this bill would prohibit a supervised financial organization, defined to include banks, savings associations, savings banks, and credit unions, from charging and collecting deposit item return fees applicable to consumers who deposit checks that are subsequently not honored due to insufficient funds. [S. FI&IT]

SBXX 21 (Kopp), as amended September 5, is intended to ensure that local agencies avoid conflicts of interest when depositing and investing public funds. Under existing law, a bank or a savings and loan association may act as a depository, paying agent, trustee, or fiscal agent for the holding or handling of public funds or securities notwithstanding the fact that a member of the legislative body or an officer or employee of the depositor is an officer, employee, or stockholder of the bank or association, of a holding company that owns any stock of the bank, or of a savings and loan holding company or service corporation of the association. This bill would prohibit a bank or savings and loan association from so acting as a depository, paying agent, trustee, or fiscal agent if the board of directors includes any member of the legislative body of the local agency or any person with investment decisionmaking authority.

Existing law permits all money belonging to, or in the custody of, a local

agency to be invested in specified instruments including negotiable certificates of deposit issued by banks, savings and loan associations, or credit unions. However, existing law prohibits the investment or deposit of local agency funds or funds in the custody of the local agency in negotiable certificates of deposit issued by a credit union if a member of the local legislative body or any of specified local agency employees also serves on the board of directors or certain committees of the credit union issuing the negotiable certificates of deposits. This bill would substitute for an employee any person with investment decisionmaking authority, as specified, would delete service on those committees from the prohibition, and would impose the same prohibition on the investment of those funds in negotiable certificates of deposits issued by banks and savings and loan associations.

Existing law prohibits the deposit of money belonging to, or in the custody of, a local agency in a state or federal credit union if a member of the legislative body of a local agency, or an employee of specified offices of the local agency, also serves on the board of directors, the credit committee, or supervisory committee of the credit union. This bill would substitute for an employee any person with investment decisionmaking authority, as specified, would delete service on those committees from the prohibition, and would additionally provide that funds shall not be deposited in any bank or savings and loan association if the board of directors of the bank or savings and loan association includes any of the same persons. The bill would provide that a local agency may hold investments prohibited under this bill until their maturity dates.

Existing law authorizes the treasurer of a local agency to deposit moneys in, and to enter into contracts with a state or national bank, savings association or federal association, or federal or state credit union unless a member of the local legislative body or any of specified local agency employees also serves on the board of directors or certain committees of the state or federal credit union. This bill would substitute for an employee any person with investment decisionmaking authority, would delete service on those committees from the prohibition, and would make the same prohibition applicable when a member of the local legislative body or any person with investment decisionmaking authority also serves on the board of directors of the bank or savings or federal association.

Existing law permits the deposit of all money belonging to a local agency under the control of any of its officers or employees, other than the treasurer, or a judge or officer of a justice or municipal court, in a state or national bank or state or federal association or state or federal credit union, unless the officer, employee, or judge also serves on the board of directors or certain committees of the credit union. This bill would substitute for an employee any person with investment decisionmaking authority, would delete service on those committees from the prohibition, and would extend that prohibition to cases where the officer, employee, or judge serves on the board of directors of a bank or state or federal association. [A. Desk]



DEPARTMENT OF INDUSTRIAL RELATIONS

CAL-OSHA

*Executive Officer: John MacLeod
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California's Occupational Safety and Health Administration (Cal-OSHA) is part of the cabinet-level Department of Industrial Relations (DIR). The agency administers California's programs ensuring the safety and health of California workers.

Cal-OSHA was created by statute in October 1973 and its authority is outlined

in Labor Code sections 140-49. It is approved and monitored by, and receives some funding from, the federal OSHA. Cal-OSHA's regulations are codified in Titles 8, 24, and 26 of the California Code of Regulations (CCR).

The Occupational Safety and Health Standards Board (OSB) is a quasi-legislative body empowered to adopt, review, amend, and repeal health and safety orders which affect California employers and employees. Under section 6 of the Federal Occupational Safety and Health Act of 1970, California's safety and health stan-

dards must be at least as effective as the federal standards within six months of the adoption of a given federal standard. Current procedures require justification for the adoption of standards more stringent than the federal standards. In addition, OSB may grant interim or permanent variances from occupational safety and health standards to employers who can show that an alternative process would provide equal or superior safety to their employees.

The seven members of the OSB are appointed to four-year terms. Labor Code



section 140 mandates the composition of the Board, which is currently comprised of occupational health representative Jere Ingram, Board Chair; occupational safety representative Gwendolyn Berman; management representative William Jackson; public member James Smith; management representative Sopac Tompkins; and labor representatives Kenneth Young, Jr. and John Foster, who was sworn in at the Board's November 16 meeting.

The duty to investigate and enforce the safety and health orders rests with the Division of Occupational Safety and Health (DOSH). DOSH issues citations and abatement orders (granting a specific time period for remedying the violation), and levies civil and criminal penalties for serious, willful, and repeated violations. In addition to making routine investigations, DOSH is required by law to investigate employee complaints and any accident causing serious injury, and to make follow-up inspections at the end of the abatement period.

The Cal-OSHA Consultation Service provides on-site health and safety recommendations to employers who request assistance. Consultants guide employers in adhering to Cal-OSHA standards without the threat of citations or fines.

The Appeals Board adjudicates disputes arising out of the enforcement of Cal-OSHA's standards.

At its July 20 meeting, OSB thanked Steve Jablonsky for his twelve years of service as its Executive Officer, and presented a plaque to him in appreciation of his dedication to the Board. Also at the July meeting, OSB welcomed its new Executive Officer, John MacLeod, who was previously with the Office of Statewide Health and Planning Development (OSHPD), where he was Chief of the Programs Support Section and the Facilities Development Division; MacLeod also served as Executive Secretary to the Hospital Building Safety Board while with OSHPD.

MAJOR PROJECTS

OSB's New Ergonomics Proposal Criticized as Being Worthless. For one year, OSB has failed to comply with a specific legislative mandate set forth in AB 110 (Peace) (Chapter 121, Statutes of 1993), which added section 6357 to the Labor Code requiring it to develop a statewide ergonomics standard by January 1, 1995 to prevent cumulative trauma disorders—injuries caused by poor workplace design for jobs that require long periods of repetitive physical movement, such as typing or assemblyline work. In February 1995, several labor organizations filed an

action against OSB in Sacramento County Superior Court; in this proceeding, the groups sought a court order requiring OSB to comply with section 6357 and adopt an ergonomics standard as soon as possible. [15:2&3 CRLR 127] On May 26, Sacramento County Superior Court Judge James Ford issued a ruling giving OSB six months to develop a proposed ergonomics standard and one additional year in which to complete the rulemaking process for adopting the standard (*see* LITIGATION).

On December 1, OSB published notice of its intent to adopt new section 5110, Title 8 of the CCR, to establish an ergonomics standard. Specifically, proposed section 5110 would specify that the regulation applies only to those employers and the specific locations in their workplaces where there is a demonstrated problem with repetitive motion injuries; require employers subject to the section to have an ergonomics program designed to minimize repetitive motion injuries, and to establish and implement the components of the program, including an evaluation of the affected worksite, control of the ergonomic hazards that caused the injuries, and provision of job-specific training to employees; and provide that the ergonomics program measures implemented by an employer shall satisfy the requirements of the section unless the employer knows of more effective measures that are cost-effective.

A 1994 ergonomics proposal—which OSB refused to adopt—would have required all employers in California to redesign work sites, train employees on safe work practices, and provide medical treatment for injured employees. [14:4 CRLR 136-37] The new proposal would apply only to workplaces in which at least two employees within twelve months are diagnosed with similar repetitive motion injuries. Labor officials and workplace advocates have criticized OSB's latest proposal, claiming that it would do absolutely nothing to prevent repetitive motion injuries. At this writing, OSB is scheduled to hold public hearings on the proposed section on January 18 in Los Angeles and January 23 in Sacramento.

Liquid Level Indicators. On June 2, OSB published notice of its intent to adopt new section 5585.1, Title 8 of the CCR, regarding liquid level indicators for Class IIIB storage tanks. Specifically, the new section would require that atmospheric storage tanks used for storing Class IIIB liquids heated by internal sources such as electric coils/elements shall be equipped with a liquid level indicator or equivalent device that displays the liquid level in the tank. Under the proposal, the liquid level

indicators must be visible to employees filling or emptying the storage tank, and the location of the internal heating coil/element must be clearly indicated.

On July 20, OSB held a public hearing on the proposed new section; on December 14, OSB adopted the section, which awaits review and approval by the Office of Administrative Law (OAL).

Confined Space Requirements. On June 2, OSB published notice of its intent to amend section 8355, Title 8 of the CCR, regarding confined space requirements in shipyard operations. Among other things, the proposed changes would clarify the order of testing before employees may enter a confined space; clarify when a flammable atmosphere must be maintained above the upper explosive limit; and clarify the limited locations and conditions where hot work may be performed without marine chemist certification.

According to OSB, the proposed changes would bring California's standard into compliance with a final rule promulgated by federal OSHA; therefore, its rulemaking is exempt from most of the requirements of the Administrative Procedure Act. However, OSB held a public hearing on the proposed changes on July 20 to determine whether there are any clear and compelling reasons for California to deviate from the federal standards, identify if there are issues unique to California related to this proposal which should be addressed, and solicit comments on the proposed effective date. Following the hearing, OSB adopted the changes as proposed, which were filed with the Secretary of State on August 28.

Compaction Equipment. On June 30, OSB published notice of its intent to amend sections 4350-4353, Title 8 of the CCR, regarding compaction equipment. Among other things, OSB's changes would require employers to ensure that all compaction equipment placed in service the first time on or after the proposal's effective date has a required plate or marking; if not, the employer must field-fabricate one if appropriate, or acquire one from the manufacturer and place it on the equipment.

On August 17, OSB held a public hearing on its proposed changes; on October 19, OSB adopted the amendments, which were approved by OAL on December 4.

Certification of Cranes and Derricks. On June 30, OSB published notice of its intent to amend sections 4885 and 5021, Title 8 of the CCR, regarding the certification of cranes and derricks. Among other things, the proposal would provide that U.S. Department of Labor-qualified persons, California-registered engineers, and responsible manufacturer personnel



must be licensed by DOSH in order to examine, test, and certify cranes and derricks.

On August 17, OSB held a public hearing on its proposed changes; on October 19, OSB adopted the amendments, which were approved by OAL on December 6.

Jobsite Vehicles and Equipment. On August 4, OSB published notice of its intent to amend sections 1597(d), 3281, 3440, and 3446, Title 8 of the CCR. Among other things, the proposed changes would require that defogging or defrosting equipment provided on jobsite vehicles be in operable condition; establish a new definition for the term "lifeline"; specify that power-driven components on tractors must be guarded; and specify that portable screw conveyors located seven feet or less above the work level shall be covered or guarded to prevent accidental contact with any portion of the screw.

OSB held a public hearing on these proposed changes on September 21; at this writing, the changes await adoption by OSB and review and approval by OAL.

Industrial Truck Definition. On August 4, OSB published notice of its intent to amend section 3649, Title 8 of the CCR, regarding the definition of the term "industrial truck." Specifically, the changes would specify that the definition includes unmanned, automated, or semi-automated guided transport vehicles which run on wheels, tracks, or narrow gauge rails and are operated through hand-held remote control or radio communication.

On September 21, OSB held a public hearing on these proposed changes; on November 16, OSB adopted the changes, which await review and approval by OAL.

Floor, Roof, and Wall Openings. On September 1, OSB published notice of its intent to amend section 1632, Title 8 of the CCR, which requires that floor openings be guarded by a standard railing and toeboards or cover. OSB's changes would require that roof and skylight openings be similarly guarded, and that covers for floor, roof, and skylight openings be capable of supporting a specified minimum weight. OSB's changes would also delete a provision which requires that skylight openings be guarded whenever employee exposure exists by a fixed standard railing on all exposed sides, or by a cover capable of sustaining the weight of a 200-pound person.

On October 19, OSB held a public hearing on the proposed changes; at this writing, the amendments await adoption by OSB and review and approval by OAL.

Process Safety Management of Acutely Hazardous Materials. On September 1, OSB published notice of its

intent to amend section 5189(b), Title 8 of the CCR, to specify that the requirements of section 5189 do not apply to the installation of certain explosive devices, similar finished products, or devices that are not intended to explode. On October 19, OSB held a public hearing on the proposed change, which awaits adoption by OSB and review and approval by OAL.

Roof Tie-Backs. On September 29, OSB published notice of its intent to amend sections 3291 and 8505, Title 8 of the CCR, regarding roof tie-back requirements. Specifically, the Board's proposed change would specify that buildings with less than four stories and 48 feet in height are not required to have eyebolts for roof tie-backs if building maintenance can be accomplished from ground-supported equipment or extension tools. On November 16, OSB held a public hearing on these proposed amendments; on December 14, OSB adopted the changes, which await review and approval by OAL.

Elevating Work Platforms and Aerial Devices. On September 29, OSB published notice of its intent to amend sections 3638(e) and 3640(a), Title 8 of the CCR, regarding elevating work platforms and aerial devices. Specifically, section 3638(e) requires that all elevating work platforms be assembled and erected in accordance with Article 24 and be maintained in a safe operating condition; OSB's change would include aerial devices in this requirement. Section 3640(a) requires that when repairs are made to elevating work platforms, material conforming to standard specifications of strength, dimensions, and weight, selected to safely support the rated work load, must be used; OSB's change would require that when repairs are made to aerial devices, these same provisions will apply.

OSB held a public hearing on these proposed changes on November 16; on December 14, OSB adopted the changes, which await review and approval by OAL.

Fixed Ladder Regulations. On October 27, OSB published notice of its intent to amend section 3277, Title 8 of the CCR, and section 1006.18, Title 24 of the CCR, regarding fixed ladders. Specifically, the proposed change would provide employers with the flexibility to adopt their fixed ladder designs to practically every structure application requiring employee ladder access. OSB held a public hearing on these proposed changes on December 14; at this writing, the changes await adoption by OSB and review and approval by OAL.

Modification of Older Cranes. On October 27, OSB published notice of its intent to amend section 4884, Title 8 of the CCR, regarding the modification of older

cranes. Specifically, the proposed change would allow owners of older cranes manufactured before January 15, 1974, to forego some of the costly modernization of their cranes as mandated by section 4884(d), if DOSH agrees that compliance with specific regulations is not feasible or would exceed the value of the crane. OSB held a public hearing on this proposed change on December 14; at this writing, the change awaits adoption by OSB and review and approval by OAL.

Rulemaking Update. The following is a status update on other OSB rulemaking proposals described in detail in previous issues of the *Reporter*:

• **Fall Protection in the Construction Industry.** At this writing, OSB has not taken any further action with regard to its proposed amendments to Articles 7, 12-14, 16, 19, 21-24, 29, and 30, Title 8 of the CCR, concerning safety standards for fall protection in the construction industry. The amendments would specify requirements for guardrail design, installation, and use; design of personal fall arrest systems; the establishment of controlled access zones; use and development of a written fall protection plan; use of safety monitors; requirements for establishing fall protection training programs; and a reduction in the current general fall criteria from 7.5 feet to 6 feet. After listening to extensive testimony criticizing the proposed amendments in December 1994, OSB ordered its staff to convene an advisory committee to prepare a side-by-side comparison of the corresponding state and federal regulations in an attempt to identify those areas that should not be adopted and why. At OSB's May 18 meeting, staff reported on the results of an April 27 advisory committee meeting, and noted that it is currently developing the side-by-side comparison of the state and federal regulations requested by the Board. [15:1 CRLR 120; 15:2&3 CRLR 128] The Administrative Procedure Act requires that rulemaking proposals be submitted to OAL within one year of notice publication; because more than one year has elapsed since this matter was originally noticed, OSB must renounce this action if it decides to pursue the proposed changes.

• **Occupational Exposure to Asbestos.** OSB has not yet adopted proposed new section 8358, Title 8 of the CCR, which would regulate occupational exposure to asbestos in all shipyard employment work. [15:2&3 CRLR 128] At this writing, OSB is expected to discuss this proposed regulation at its March meeting in San Diego.

• **Respiratory Protective Equipment.** On June 29, OAL approved OSB's amendments to sections 1531 and 5144, Title 8



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of the CCR, regarding respiratory protective equipment. OSB's changes to these sections allow the use of breathing air compressors without specified features to supply respirators used in atmospheres not immediately dangerous to life or health. [15:2&3 CRLR 128]

• **Recordkeeping Retention Requirements.** On June 1, OAL approved OSB's amendments to section 3203, Title 8 of the CCR, which requires all employers to establish, implement, and maintain an effective Injury and Illness Prevention Program (IIPP), and specifies time periods for which IIPP records are to be maintained. Specifically, OSB's changes require that records of scheduled and periodic inspections, documentation of safety and health training, and written records concerning labor/management safety and health committees be maintained for at least one year. [15:2&3 CRLR 128-29]

• **Tree Workers' Saddles.** On June 22, OSB adopted a proposed amendment to section 3422, Title 8 of the CCR, which requires employers to use tree workers' saddles designed, manufactured, and certified to meet the provisions of ANSI A10.14 (1975); OSB's change requires all tree workers' saddles to be approved for their intended use as defined in section 3206, Title 8 of the CCR. [15:2&3 CRLR 129] On August 4, OAL approved this change.

• **Lint Cleaner Saws.** On June 22, OSB adopted proposed amendments to section 4640, Title 8 of the CCR, which requires that access doors to rotating saws of lint cleaners be guarded by interlocked barriers, bolts, padlocks, or the equivalent. Among other things, OSB's revisions require that before accessing lint cleaner saws, the saw cylinder rotation must be stopped; require a vision panel in the lint cleaner's side drive covers/guards, to permit viewing the lint cleaner's drive pulley, unless the pulley can be viewed through the guard/drive covers; require a spoke of the drive pulley to be a contrasting color to improve the employee's ability to readily detect saw cylinder rotation; provide the employer with methods of effectively guarding the different types of saw access openings found on lint cleaners; and require employers to implement additional safety policy and procedures and provide additional employee training and instruction. [15:2&3 CRLR 129] On August 1, OAL approved the changes.

• **Passenger Tramway Safety Orders.** On June 22, OSB held a public hearing on a proposed amendment to section 3150, Title 8 of the CCR, which specifies where its passenger tramway safety orders are applicable, when they become effective,

which tramways are not included, and defines the term "major alterations." OSB's changes insert the date which specifies when existing tramways are to be brought into compliance with these safety orders; and allow existing tramways installed before 1988 to continue to operate without fully complying the safety orders. [15:2&3 CRLR 129] On July 20, OSB adopted the changes, which were approved by OAL on August 25.

• **Periodic Inspection of Cranes.** On June 22, OSB held a public hearing on proposed amendments to section 5031, Title 8 of the CCR, which contains specific requirements for the inspection and maintenance of cranes and derricks, and which addresses—among other things—visual inspections by qualified persons, frequency of inspections, specific criteria for visual inspection of crane and/or derrick components, proof load testing, inspection of hooks and rope assemblies, and use of nondestructive testing methods. OSB's changes require periodic inspections of cranes and derricks at least four times per year, and provide that the annual inspection (certification) may serve as one of the required periodic inspections. [15:2&3 CRLR 129] On September 21, OSB adopted these changes, which were approved by OAL on October 16.

• **Rubber-Tired Gantry Crane Wheel Guards.** On June 1, OAL approved OSB's amendment to section 4906(c), Title 8 of the CCR, regarding rubber-tired gantry crane wheel guards. Previously, section 4906(c) required that gantry truck wheels be guarded in such a manner as to push a person out of the way to prevent that person from being run over. Makers of wheel guards argued that because people are not fixed objects and have great degrees of movement, it is impossible to design a wheel guard that will always be capable of preventing a person from being run over; thus, OSB's amendment deletes that requirement. [15:2&3 CRLR 129; 15:1 CRLR 120]

• **Demolition Standards.** On May 22, OAL approved OSB's amendments to sections 1504, 1734, 1735, 1736, and 4941, Title 8 of the CCR, regarding demolition work. Among other things, OSB's amendments revise the definition of the term "qualified person" to be consistent with the same term as defined in section 3207 of OSB's general industry safety orders; provide that employees performing demolition work be under the immediate supervision of a qualified person; require employers to check and/or test for the presence of hazardous substances and, if found, have them eliminated before demolition work is started; require employers to

survey for the presence of asbestos and, if found, comply with section 1529, Title 8 of the CCR; require that weakened or unsafe floors be shored to safely support the imposed loading; provide that wood floor beams which brace interior walls or free-standing exterior walls be left in place until other equivalent support can be provided; permit the use of fences or barricades as a method of protecting employees from the hazard of falling debris from a chute discharge end; limit employee exposure to the hazards associated with demolition operations being performed by cranes using balling or clamming techniques; provide that cranes used on demolition sites need not be certified as required by section 5021, Title 8 of the CCR; allow cranes used exclusively for demolition purposes to be moved from jobsite to jobsite without requiring them to be certified as specified in section 5021; and require all cranes used for clamming or balling operations, regardless of whether they have a current annual certification, to be recertified or certified if used for lifting operations not associated with a demolition project. [15:2&3 CRLR 129-30; 15:1 CRLR 120-21]

• **Electrical Safety Orders.** On August 28, OAL approved OSB's amendments to section 2540.8(b)(6), Title 8 of the CCR, and section 515-1(a) and (b), Title 24 of the CCR, regarding docks for the loading and unloading of tanker ships. Among other things, OSB's changes require that the hazardous location classification around docks used for the loading and unloading of tanker ships be consistent with the California Electrical Code, and eliminate an existing inconsistency between Title 8 and Title 24 of the CCR. [15:2&3 CRLR 130; 15:1 CRLR 121]

• **Prevention of Occupational Tuberculosis.** OSB has taken no further action on the proposed adoption of new section 5197, Title 8 of the CCR, which would specify protective measures designed to control tuberculosis (TB) and the spread of TB in occupational settings. Section 5197 would apply to specifically enumerated categories of employment in which employees are known to have a significant risk of developing occupational TB. Under the proposed regulation, covered employers would be required to develop and implement an exposure control plan; provide TB surveillance, preventive therapy, and medical evaluation where appropriate; implement appropriate engineering and work practice controls and respiratory protection; provide employee training; and fulfill recordkeeping requirements. [15:2&3 CRLR 130; 15:1 CRLR 122; 14:4 CRLR 138]



• **Tunnel Safety Orders.** On August 17, OSB adopted its proposed amendments to sections 8400-8568 and Appendices A, B, and C, Title 8 of the CCR, regarding tunnel safety standards. The amendments include increased tunnel illumination standards, air quality regulations, standards for testing for dangerous or explosive gases, requirements for a fixed system of continual automatic monitoring equipment within specified places in tunnels using mechanical elevators, standards for the testing of communications systems, reporting requirements for employees working underground, and numerous nonsubstantive changes and reorganizations. [15:2&3 CRLR 130; 15:1 CRLR 120]

However, OAL disapproved the rulemaking file on October 2, on the basis that it did not comply with the clarity and consistency standards and procedural requirements of the Administrative Procedure Act. At this writing, OSB has not yet resubmitted the rulemaking file to OAL.

LEGISLATION

AB 50 (Johnson), as amended September 12, would repeal Labor Code section 6357, which requires OSB, on or before January 1, 1995, to adopt minimum standards for ergonomics in the workplace designed to minimize the instances of injury from repetitive motion; OSB failed to meet this statutory mandate and only recently published its new proposed standard for consideration (*see* MAJOR PROJECTS). [15:2&3 CRLR 127; 15:1 CRLR 119-20] [A. Floor]

AB 310 (Battin). Existing law establishes the Cal-OSHA Targeted Inspection and Consultation Fund, the funds in which are to be expended for Cal-OSHA's Targeted Inspection Program, Targeted Consultation Program, and the certification of loss control consultation services of workers' compensation insurers. [13:4 CRLR 133] Existing law provides for an assessment on employers with a workers' compensation insurance rating modification of 1.25 or more, to be deposited into the Fund. As introduced February 8, this bill would limit the assessment on employers to \$1,000. [A. L&E]

AB 452 (Escutia). Under existing law, the DIR Director levies certain assessments on insured employers and private self-insured employers, and collects fees from workers' compensation insurers, as specified, for deposit in Cal-OSHA's Targeted Inspection and Consultation Fund. The moneys in the Fund may be expended by DIR, upon appropriation by the Legislature, for designated Cal-OSHA programs relating to worker safety and for the costs

of certifying loss control consultation services of workers' compensation insurers. As introduced February 10, this bill would require DIR, no later than February 1, 1996, to appoint an advisory task force with specified membership, and direct the advisory task force, no later than May 1, 1996, to submit to the legislature its recommendations regarding the allocation, by priority of funding purpose, of the moneys in the Cal-OSHA Targeted Inspection and Consultation Fund. The bill would provide for the repeal of the above provisions on January 1, 1997. [A. L&E]

AB 572 (Goldsmith), as amended March 28, would require OSB, in adopting a standard that is different from a federal occupational safety and health standard covering the same issue, to make a finding that the cost of the differing state standard is justified by a specific benefit to safety in the workplace. The bill would require these findings to be included with the adopted standard in the CCR and the State Building Standards Code. The bill would apply to adoption of new standards and amendment of existing standards on and after January 1, 1996; it would not apply to standards already in effect on that date or to standards adopted pursuant to statutory provisions requiring nonconformity with the federal standards. [A. L&E]

AB 983 (Firestone). Existing law requires every employer to establish, implement, and maintain an IIPP, and requires OSB to adopt employer compliance standards. As amended April 25, this bill would declare the intent of the legislature to revise these provisions so as to eliminate unnecessary and duplicative reporting requirements, while preserving existing safety and health standards. [A. Appr]

AB 1398 (Woods), as introduced February 24, would exempt from the IIPP requirement small businesses, which the bill would define as employers with 25 or fewer employees. [A. L&E]

AB 1116 (Knox). Existing law authorizes the DIR Director, or his/her designee, where he/she finds a pattern or practice of violations or a willful violation of those requirements by any employer or physician, to assess a civil penalty of not less than \$50 nor more than \$200. As introduced February 23, this bill would increase the minimum and maximum civil penalties assessable in these cases to not less than \$350 nor more than \$1,400.

Existing provisions of the California Occupational Safety and Health Act of 1973 specify that, except where a penalty is otherwise prescribed for violations of occupational safety and health statutes, standards, orders, and special orders, the penalty for certain serious violations, re-

peated violations, violations creating a real or apparent hazard for employees after notice and expiration of any abatement period, or for inducing such a violation is imprisonment in the county jail and a fine not to exceed \$5,000, or both. This bill would increase the maximum fine for these violations from \$5,000 to \$70,000. [A. L&E]

AB 1251 (House). Existing law specifies that, except as between an employee and his/her employer, the provisions of the California Occupational Safety and Health Act of 1973 do not apply to any civil action for personal injury or wrongful death that arose after April 1, 1972. As introduced February 23, this bill would instead specify that the provisions of the Act do not apply to any civil action for personal injury or wrongful death that is not between the employee and employer, regardless of when the cause of action arose or accrued. [A. L&E]

AB 1279 (McDonald), as amended March 27, would make findings concerning glasswool insulation and require OSB, on or before January 1, 1998, to adopt a standard limiting exposure to airborne fiberglass in accordance with specified recommendations of the U.S. National Institute for Occupational Safety and Health. [A. L&E]

AB 1399 (W. Brown). The Corporate Criminal Liability Act of 1990 provides that a corporation, limited liability company, or person who is a manager with respect to a product, facility, equipment, process, place of employment, or business practice, is guilty of a misdemeanor or felony, if the corporation, limited liability company, or manager has actual knowledge of a serious, concealed danger that is subject to the regulatory authority of an appropriate agency and is associated with that product or a component of that product or business practice and knowingly fails, within 15 days of acquiring the actual knowledge or immediately if there is imminent risk of great bodily harm or death, to inform DOSH and warn its affected employees. [10:4 CRLR 132] As introduced February 24, this bill would provide enhancements, as specified, for the repeated violation of this provision. [A. PubS]

SB 666 (Marks). Under existing workers' compensation provisions, an employee who is injured or killed in connection with his/her employment receives compensation only through workers' compensation and may not file a civil action; a civil remedy is available only if an exception to this rule exists. As introduced February 22, this bill would provide that a civil remedy is available if an employee's



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injury or death is proximately caused by a violent crime in the workplace. The employee must prove by clear and convincing evidence that prior violent crimes occurred in the workplace, that reasonable precautions could have been taken by the employer, and that the employer unreasonably failed to take those precautions. [*S. Appr*]

LITIGATION

In *California Labor Federation, AFL-CIO, v. OSB*, No. 95CS00362 (Sacramento County Superior Court, filed Feb. 2, 1995), petitioners seek a court order mandating OSB to comply with Labor Code section 6357 and adopt an ergonomics standard as soon as possible (*see MAJOR PROJECTS*). [*15:2&3 CRLR 131*] On May 26, Sacramento County Superior Court Judge James Ford ordered OSB to develop a proposed standard within six months, and to complete the rulemaking process to adopt that standard by the end of 1997.

RECENT MEETINGS

At its June 22 meeting, OSB considered Petition No. 361, which requested OSB to adopt a standard addressing employee crime protection and prevention. In response to the petition, DOSH noted that workplace safety and health hazards affecting California employees have traditionally been viewed as arising from unsafe work practices, hazardous industrial conditions, or exposures to harmful chemical, biologic, or physical agents, not from violent acts committed by other human beings. DOSH agreed that workplace violence is on the rise, but noted that no single explanation for the increase is readily available. DOSH further noted that employers who have employees at risk or workplace violence are currently required to address workplace security hazards in

order to satisfy the IIPP requirement. Following discussion, OSB denied the petition.

At its July 20 meeting, OSB considered Petition No. 362, which requested OSB to amend sections 1598 and 1599, Title 8 of the CCR, regarding highway traffic safety issues; among other things, the petitioner asked that a reference to the Manual of Traffic Controls for Construction and Maintenance Work Zones reflect the 1995 document, which is currently in its final draft form. The petitioner also asked that the provisions be amended to allow colors other than orange to be worn by workers in traffic area construction zones. Following discussion, OSB returned the matter to staff for further review.

Also at its July 20 meeting, OSB considered Petition No. 363, requesting OSB to amend section 1675, Title 8 of the CCR, regarding ladders. Specifically, the petitioner asked that the section be revised to provide that no one shall be permitted to stand and work on the top two rungs or cleats of a ladder unless there are members of the structure that provide a firm handhold or the worker is protected by appropriate fall protection devices. Following discussion, OSB denied the petition, but directed staff to convene an advisory committee to consider some of the issues raised in the petition.

At its August 17 meeting, OSB reconsidered Petition No. 362, which it first reviewed at its July 20 meeting (*see above*). Following discussion, OSB granted the petition.

At its September 21 meeting, OSB considered Petition No. 364, which requested OSB to amend section 3410, Title 8 of the CCR, with regard to wildland firefighting requirements. Current regulations require that wristlets be attached to the gloves of wildland firefighters; for structural firefighting, wrist protection is

required by wristlets attached to the structural firefighting coat, not the gloves. The petitioner submitted language which would give fire departments the option of using structural firefighting gloves when fighting wildland fires. Following discussion, OSB agreed to adopt the proposed changes.

At its October 19 meeting, OSB discussed Governor Wilson's Executive Order 127-95, signed in September, which directs state agencies to review their regulations and identify all regulations suitable for repeal for the purpose of simplifying regulations, making them more user-friendly, and reducing excessive regulatory burden. In order to receive input on which OSB regulations are suitable for repeal, the Board scheduled a special public meeting to be held on November 29 in Sacramento.

At its December 14 meeting, OSB considered Petition No. 365, which requested amendments to sections 5095(b), 5097(a), and 5097(b)(2), Title 8 of the CCR, regarding the measurement of occupational noise exposures. Following discussion, OSB returned the petition for staff for further review.

FUTURE MEETINGS

January 18 in Los Angeles.
February 22 in Oakland.
March 21 in San Diego.
May 16 in Los Angeles.
June 20 in Oakland.
July 18 in San Diego.
August 15 in Sacramento.
September 19 in San Diego.



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CAL-EPA)

AIR RESOURCES BOARD

Executive Officer: James D. Boyd
Chair: John D. Dunlap III
(916) 322-2990

Pursuant to Health and Safety Code section 39003 *et seq.*, the Air Resources Board (ARB) is charged with coordinating efforts to attain and maintain ambient air quality standards, to conduct research into the causes of and solutions to air pollution, and to systematically attack the serious

problem caused by motor vehicle emissions, which are the major source of air pollution in many areas of the state. ARB is empowered to adopt regulations to implement its enabling legislation; these regulations are codified in Titles 13, 17, and 26 of the California Code of Regulations (CCR).

ARB regulates both vehicular and stationary pollution sources. The California Clean Air Act requires attainment of state ambient air quality standards by the earliest practicable date. ARB is required to

adopt the most effective emission controls possible for motor vehicles, fuels, consumer products, and a range of mobile sources.

Primary responsibility for controlling emissions from stationary sources rests with local air pollution control districts (APCDs) and air quality management districts (AQMDs). ARB develops rules and regulations to assist the districts and oversees their enforcement activities, while providing technical and financial assistance.