



Association in Escondido has been closed, costing the Federal Home Loan Bank Board \$57.3 million. According to DSL Chief Deputy William Davis, most of Carver's problems stemmed from an ill-fated foray into mortgage banking in which the institution was unable to generate and sell mortgages properly.

## LEGISLATION:

**AB 438 (Lancaster)** would exclude certain supervised financial organizations, including banks, savings associations, and credit unions, from current requirements relating to the contents of mortgage contracts, deeds of trust, real estate sales contracts, or any note or negotiable instrument issued in connection with any of these documents used to finance the purchase or construction of real property when the security document or evidence of debts provides for a variable rate of interest. AB 438 is pending in the Assembly Finance and Insurance Committee.

**SB 391 (Vuich)** would ease the ability of the Savings and Loan Commissioner

to take over troubled institutions by removing the requirement for a formal finding of impaired condition before the Commissioner may appoint a conservator. This bill is pending in the Senate Banking and Commerce Committee.

**SB 1217 (Beverly)** would make several changes in the law governing savings and loan operations, including adopting federal standards for minimum liquidity requirements; requiring that unsound business activities must have been knowing and willful before sanctions may be applied; adding the sanction of prohibiting such an individual from participating in the institution's operations in any way; and permitting the DSL to submit fingerprints of specified persons to law enforcement agencies. This bill is pending in the Senate Banking and Commerce Committee.

**SB 1540 (Keene)** would allow both federal and state savings and loan institutions to become state chartered savings banks, regulated by the state Banking Department and insured by FDIC rather than the FSLIC. This bill is pending in the Senate Banking and Commerce Committee.

to take over troubled institutions by removing the requirement for a formal finding of impaired condition before the Commissioner may appoint a conservator. This bill is pending in the Senate Banking and Commerce Committee.

**SB 1217 (Beverly)** would make several changes in the law governing savings and loan operations, including adopting federal standards for minimum liquidity requirements; requiring that unsound business activities must have been knowing and willful before sanctions may be applied; adding the sanction of prohibiting such an individual from participating in the institution's operations in any way; and permitting the DSL to submit fingerprints of specified persons to law enforcement agencies. This bill is pending in the Senate Banking and Commerce Committee.

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

## MAJOR PROJECTS:

**Implementation of Proposition 97.** OSB staff is continuing to work toward full restoration of Cal-OSHA, following the November passage of Proposition 97 (see CRLR Vol. 9, No. 1 (Winter 1989) p. 80 and Vol. 8, No. 4 (Fall 1988) p. 91 for background information). At its January 19 meeting, OSB staff reported that funding to augment the current budget was available. Additionally, DIR had sent letters regarding possible re-employment to virtually all employees who left Cal-OSHA since January 1987. At its February 23 meeting, OSB staff noted that the Board was currently authorized to fill 17 positions. OSB staff announced that four former Board safety engineers would be returning to their previous positions. Additionally, two former senior industrial hygienists returned to work for the Board, one working full-time and one working part-time. Also, staff announced that one of the three needed clerical support staff was due to return to work on March 2. Finally, staff announced that it intended to develop a work plan within the next thirty days for adopting the backlog of standards comparable to recently adopted federal standards. In adopting such standards, OSB plans to update those which fell behind during the absence of the private sector worker safety program.

**Disapproval of Regulatory Action.** On November 23, OSB submitted proposed revisions to Title 8, Boiler and Unfired Pressure Vessel Safety Orders, Article 5, section 779(a) and (b) of the California Code of Regulations (CCR), to the Office of Administrative Law (OAL). (See CRLR Vol. 9, No. 1 (Winter 1989) p. 80 for background information.) The proposed regulatory action would amend the experience and education requirements for certifying inspectors of boiler and pressure vessels to make such requirements consistent with the revised 1988 bylaws of the National Board of



## DEPARTMENT OF INDUSTRIAL RELATIONS

### CAL-OSHA

Director: Ronald T. Rinaldi  
(916) 322-3640

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 government employees at the state and local levels.

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.

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 government employers and employees. Under section 6 of the Federal Occupational Safety and Health Act of 1970, California's safety and health standards 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 comprised of two members from management, two from labor, one from the field of occupational health, one from occupational safety, and one from the general public.

The duty to investigate and enforce the safety and health orders rests with the Division of Occupational Safety and Health (DOSHA). DOSHA 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 viola-



## REGULATORY AGENCY ACTION

Boiler and Pressure Vessel Inspectors. On December 23, OAL disapproved the Board's proposed regulatory action because it failed to satisfy the clarity, necessity, and authority standards set forth in Government Code section 11349, and the rulemaking file submitted to OAL omitted required documents.

**Proposed Regulatory Action.** At its January 19 meeting, OSB adopted proposed section 5192, Titles 8 and 26 of the CCR. OSB previously held a public hearing on this proposed section in July 1987, adopted the section at its April 1988 meeting, and OAL disapproved the proposed regulation in May 1988. In 1986, SB 2575 (McCorquodale) (Chapter 1443, Statutes of 1986) was enacted, requiring OSB to adopt regulations regarding hazardous substances removal work as defined in the Health and Safety Code. Section 5192 was initially proposed to reflect the federal standards in this area with minor modifications. However, OAL felt that the proposed section did not take into account substantive changes that were made to the federal standards and published in the Federal Register on May 4, 1987, and therefore disapproved OSB's proposed regulation. The modified section 5192 adopted by OSB in January contains modifications resulting from the issues raised by OAL. OSB submitted the adopted regulatory action to OAL for approval on January 24. On February 22, OAL again notified the OSB of its disapproval of the adoption of section 5192. OAL determined that OSB's failure to provide an approved fiscal impact statement violated procedural requirements of the Administrative Procedure Act.

### LEGISLATION:

**SB 356 (Petris).** Sections 6398.1 and 6399.1 of the Labor Code require OSB to adopt a standard setting forth an employer's duties towards employees regarding hazardous substances information and training, and requires the Director of the Department of Food and Agriculture (CDFA) to adopt regulations regarding pesticides and work safety. The Code further provides that compliance by an employer with the regulations promulgated by the CDFA Director shall be deemed compliance with the obligations of an employer towards his/her employees pursuant to the Board's adopted standard regarding hazardous substances information and training. This bill would delete the provision regarding compliance and, instead, would require OSB, on or before July 1, 1990, to adopt a standard setting forth the duties

of an agricultural employer, as defined, towards its employees with regard to hazardous substances information and training, as specified. It would also require DOSH to enforce this standard. At this writing, this bill is pending in the Senate Committee on Industrial Relations.

**SB 198 (Greene).** Section 6230 of the Labor Code provides that if, after inspection or investigation of a place of employment, DOSH issues a citation for a serious violation, the Division shall conduct a reinspection at the end of the period fixed for abatement of the violation or within a reasonable time thereafter, unless the violation is abated at the time of inspection or investigation.

This bill would, instead, require DOSH to conduct a reinspection if the Division issues or establishes a special order, an order to take special action, a serious violation characterized as repeat or willful, a serious violation for failure to comply with a special order or action order, or an abatement period of less than six days. SB 198 would require the reinspection to be conducted at the end of the period fixed for compliance with the order or abatement of the violation or within 30 days thereafter, if at the time of inspection the order is not complied with or the violation is not abated. It would also require DOSH to conduct a reinspection of a place of employment if it determines that it is necessary based on specified relevant criteria; require the Division to conduct a random reinspection of at least 20% of the inspections or investigations not otherwise required to be reinspected; require the employer to submit a signed statement that he/she has complied with the abatement terms or the terms of the special order or order to take special action; and require the Division to conduct a reinspection within three days if it fails to receive the signed statement from the employer within ten days after the end of the abatement period. At this writing, this bill is pending in the Senate Committee on Industrial Relations.

**SB 478 (Greene).** Existing law does not require the licensing of crane operators. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 81 for further information.) This bill would create the Crane Operators Licensing Board consisting of three appointed members, and would make it a misdemeanor for any person to operate a crane without having a license issued by the Board, with certain exceptions.

This bill would require the Board to investigate, classify, and qualify applicants for a license to operate a crane by written and practical examination, and

would require the Board to issue a license to applicants meeting specified qualifications without examination. This bill would permit DOSH to collect fees as fixed by the Board for the examination and licensing of crane operators as necessary to cover the actual costs, including administrative costs, and would require that these fees be deposited in the Crane Operators Licensing Account, which is created by the bill for the administration of the crane operators licensing program.

This bill would require the Board to investigate complaints against licensees and take action against any licensee committing acts or omissions which are specified as causes for disciplinary action, and would specify the term and procedure for renewal of a license. Finally, this bill would permit the chief of the Division or any taxpayer to apply to the superior court for an injunction restraining a person from acting in the capacity of a crane operator when it appears that the person is doing so without a license. SB 478 is pending in the Senate Industrial Relations Committee.

**AB 167 (Floyd).** The California Occupational Safety and Health Act of 1973 (Cal-OSHA) authorizes DOSH to issue citations or notices and to impose civil penalties on employers for violations of any specified health and safety standard, rule, order, or regulation. It also permits an employer to contest a citation, notice, or civil penalty by means of an appeal to the Occupational Safety and Health Appeals Board.

This bill would prohibit DOSH from withdrawing or amending an action on appeal so as to reduce the seriousness of a citation or the amount of a civil penalty for a violation cited as serious or willful unless the Division obtains an order of the Appeals Board. It would require the Board to issue such an order only where the Division demonstrates by a preponderance of the evidence either that there is insufficient evidence to sustain the action or a material witness is unavailable. This bill is currently pending in the Assembly Committee on Labor and Employment.

**SB 1190 (Marks)** would specify that each campus of the California State University is an employer, included with the classification of employers engaging in specified asbestos-related work who must register with DOSH and meet other designated criteria in connection with the performance of that work. This bill is pending in the Senate Education Committee.

**AB 1564 (Connelly)** would require the owner of any building constructed



prior to 1979 to provide employees with a summary of asbestos-related inspections already required by law. This bill would also require the existing asbestos survey and monitoring data required by law to be available to employees within the building or another building which is also owned by the owner. This bill is pending in the Assembly Labor and Employment Committee.

The following is a status update on bills reported in detail in CRLR Vol. 9, No. 1 (Spring 1989) at pages 80-81:

*AB 138 (Floyd)*, *AB 147 (Floyd)*, and *AB 148 (Floyd)* are pending in the Assembly Committee on Labor and Education.

#### LITIGATION:

At this writing, *Ixta, et al. v. Rinaldi*, No. C002805 (Third District Court of Appeal), remains pending before the California Supreme Court. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 81; Vol. 8, No. 4 (Fall 1988) p. 92; Vol. 8, No. 3 (Summer 1988) pp. 98-99; and Vol. 8, No. 1 (Winter 1988) p. 85 for background information.)

#### RECENT MEETINGS:

At its January 19 meeting in Los Angeles, OSB granted permanent variances from section 3000(c)(13), Title 8 (Elevator Safety Orders) to the following entities: State Center Community College District, The Sports Club/Irvine, Antelope Valley Union High School District, and the City of Los Angeles Department of Water and Power; and Western Metal Decorating Company from section 475(b), Title 8 (Unfired Pressure Vessel Safety Orders).

At its February 23 meeting in San Francisco, OSB granted permanent variances to the following entities: Nobis Care Homes and Greater Faith Missionary Baptist Church from section 3000(d)(11), Title 8 (Elevator Safety Orders); State Water Resources Control Board from section 5144(h), Title 8 (General Industry Safety Orders); Allington Industries from section 462(m), Title 8 (Unfired Pressure Vessel Safety Orders); Sorenson Engineering, Inc. from section 462(m)(3), Title 8 (Unfired Pressure Vessel Safety Orders); and University of Southern California, Fritz Burns Foundation, The Voit Companies, Valtrans, and Red Bluff Union High School District from section 3000(c)(13), Title 8 (Elevator Safety Orders).

#### FUTURE MEETINGS:

June 22 in San Francisco.



## DEPARTMENT OF FOOD AND AGRICULTURE

### DEPARTMENT OF FOOD AND AGRICULTURE

Director: *Jack Parnell*  
(916) 445-7126

The Department of Food and Agriculture (CDFA) promotes and protects California's agriculture and executes the provisions of the Agriculture Code which provide for the Department's organization, authorize it to expend available monies and prescribe various powers and duties. The legislature initially created the Department in 1880 to study "diseases of the vine." Today the Department's functions are numerous and complex.

The Department works to improve the quality of the environment and farm community through regulation and control of pesticides and through the exclusion, control and eradication of pests harmful to the state's farms, forests, parks and gardens. The Department also works to prevent fraud and deception in the marketing of agricultural products and commodities by assuring that everyone receives the true weight and measure of goods and services.

The Department collects information regarding agriculture, and issues, broadcasts and exhibits that information. This includes the conducting of surveys and investigations, and the maintenance of laboratories for the testing, examining and diagnosing of livestock and poultry diseases.

The executive office of the Department consists of the director and chief deputy director who are appointed by the Governor. The director, the executive officer in control of the Department, appoints two deputy directors. In addition to the director's general prescribed duties, he may also appoint committees to study and advise on special problems affecting the agricultural interests of the state and the work of the Department.

The executive office oversees the activities of seven operating divisions:

1. Division of Animal Industry—Provides inspections to assure that meat and dairy products are safe, wholesome

and properly labeled and helps protect cattle producers from losses from theft and straying;

2. Division of Plant Industry—Protects home gardens, farms, forests, parks and other outdoor areas from the introduction and spread of harmful plant, weed and vertebrate pests;

3. Division of Inspection Services—Provides consumer protection and industry grading services on a wide range of agricultural commodities;

4. Division of Marketing Services—Produces crop and livestock reports, forecasts of production and market news information and other marketing services for agricultural producers, handlers and consumers; oversees the operation of marketing orders and administers the state's milk marketing program;

5. Division of Pest Management—Regulates the registration, sale and use of pesticides and works with growers, the University of California, county agricultural commissioners, state, federal and local departments of health, the United States Environmental Protection Agency and the pesticide industry;

6. Division of Measurement Standards—Oversees and coordinates the accuracy of weighing and measuring goods and services; and

7. Division of Fairs and Expositions—Assists the state's 80 district, county and citrus fairs in upgrading services and exhibits in response to the changing conditions of the state.

In addition, the executive office oversees the Agricultural Export Program and the activities of the Division of Administrative Services, which includes Departmental Services, Financial Services, Personnel Management and Training and Development.

The State Board of Food and Agriculture consists of the Executive Officer, Executive Secretary, and fifteen members including the Board President who voluntarily represent different localities of the state. The State Board inquires into the needs of the agricultural industry and the functions of the Department. It confers with and advises the Governor and the director as to how the Depart-