

## **DIR's budget shell game – try to follow the bean as round and round it goes...**

By Garrett Brown  
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It's budget time in Sacramento. The Governor released his proposed budget in January, which includes two Budget Change Proposals (BCP) submitted by the Department of Industrial Relations (DIR) related to Cal/OSHA. The state Assembly budget subcommittee held a hearing in March on the DIR's BCPs and the state Senate held a hearing on Thursday, April 3<sup>rd</sup>.

There are a lot of inconsistencies and unanswered questions about both the proposed budget and DIR BCPs, which have to be approved by both Assembly and Senate and signed by the Governor to become law.

Even assuming everything was passed as now proposed, Cal/OSHA's field compliance inspectors would increase to about 200 compliance safety and health officers – the level it was in year 2000. While any increase is welcome, this number of field compliance inspectors is still well below the number of Fish and Game Wardens in California (253 in November 2013) and the number of inspectors (282) needed to match the inspector to worker ratio that Federal OSHA has. The 200 inspectors, if achieved, will also not be able to reverse the years-long pattern that Cal/OSHA is unable to meet the performance benchmarks set by either Federal OSHA and by state law, the California Labor Code.

### **BCP #1: Expansion of the Process Safety Management Unit**

The first BCP is for the expansion of the Process Safety Management (PSM) unit that was mandated by the state legislature and signed into law by Governor Brown last year. At the Assembly budget hearing in March, Assemblywoman Nancy Skinner repeatedly asked DIR Director Christine Baker and DIR Chief Financial Officer Greg Edwards why the BCP included only 15 new positions (12 CSHOs and 3 administrative positions, including a new CEA position for the DIR's Office of the Director) when the legislature's mandate was for 15 new positions and 4 positions redirected from the TICF Fund unit that was eliminated this fiscal year -- for a total of 19 positions for PSM. The discussion went round and round until Edwards finally acknowledged that DIR's BCP for 15 positions (rather than 19) was "within the parameters given to DIR by the Administration." Approval of this BCP was "held over" until the Senate Budget Committee can review the proposal and the situation can be "clarified."

### **BCP #2: Increased Spending Authority to Fill Vacant Positions**

The second BCP was DIR's proposal to "fill all vacancies" in the Division. The BCP – see the detailed explanation below – actually only funds 26 existing vacant positions and eliminates 5.5 existing vacant positions. This BCP – if approved and signed as proposed – would only increase the field staff by 10 CSHOs in District Offices and 2 field inspectors in M&T – and it abolishes 5.5 other DOSH positions. Not exactly "filling all vacancies"

in DOSH. The Assembly committee approved this BCP and sent it on to the full Assembly, with no discussion of the actual numbers and what they mean.

### **Cal/OSHA Staffing Numbers in the Governor's Budget**

A look at the Governor's budget proposal for fiscal year 2014/15 (which starts on July 1st) – see other attachment, page LWD 20 – adds to the mystery. The "3-YR Expenditures and Positions" chart indicates that there were 668.8 DOSH positions in FY 2012-13 (July 2013 through June 2013), which is correct. But then it states there are 722.4 DOSH positions in the current fiscal year – right now – an increase of 53.6 positions over last fiscal year.

Where are those positions? The only hiring that has been done in the current fiscal year (which ends in three months) is for the 15 PSM expansion positions (new hires and backfills for transfers) and a handful of backfills for vacancies created by retirements. But certainly not 53 new positions this year.

Then the Governor's budget says an additional 4 positions – for a total of 57 new positions – will be added in DOSH in the next fiscal year (which starts in July). But the new positions in that fiscal year would be the 26 BCP-funded positions, minus the 5.5 positions that are being abolished.

So for the 57 new positions – beyond the 668 positions that everyone agrees DOSH had in June 2013 – we have 15 PSM positions plus 26 BCP positions minus 5.5 abolished positions, or a total of 35.5 positions.

So where are the other 22 positions?

And this is not the only mystery as the DIR staffing profile of DOSH positions in November 2013 indicated there were 664.12 positions total, with only 594.7 positions being filled, and 69.5 vacant positions. If DOSH now has 722.4 positions, then that would mean a total number of vacancies being 127.7 positions (using DIR's November 2013 data).

So the BCP to "fill all vacancies" only fills 26 positions (minus the 5.5 existing positions being eliminated) – not the 127.7 vacant positions in the Governor's chart, or even the 69.5 vacant positions that DIR registered in November 2013.

### **Governor's Budget for the OSH Fund**

A look at the Governor's budget proposals for the OSH Fund – see the other attachment, page LWD 7 – indicates the condition of the principal funding source for DOSH's operations with the Federal OSHA grant.

The budget projects for fiscal year 2014-15 (which starts in July) an increase in revenue from "other regulatory fees" to \$57.1 million – an increase of \$17.2 million in collected

fees from the last fiscal year and a \$21.7 million increase from collected fees from the current fiscal year. This is in addition to the new \$5.4 million in oil refinery fees. I wonder if employers know they will be charged \$21.7 million more in regulatory fees next year compared to this year?

In the expenditures columns, the Governor's budget projects a \$13.5 million increase in "Department of Industrial Relations (state operations)" for the current fiscal year and a \$6.3 million increase in the next fiscal year (starting in July) – for a total increase in DIR expenditures of \$19.8 over the last fiscal year.

But DIR's BCPs only call for a \$2.4 million increase a year for the expanded PSM (\$3 million less than what DIR collects in refinery fees) and a \$3.3 million increase for the staffing BCP in next fiscal year starting in July. This gives a total of \$8.1 million in increased expenditures for DOSH staffing for the current fiscal year and the next fiscal year.

So what's the other \$11.7 million in new DIR expenditures for FY 2013/14 and 2014/15 going to be spent on? What's going to happen to the unspent \$3 million DIR collects annually from the oil refinery fees?

**“Fill All Available vacancies” – promised action by DIR since September 2103.**

- April 2011: DIR recognized 706 positions for DOSH.
- July 2012: DIR abolished 41.4 positions; leaving 664 recognized positions for DOSH.
- November 2013: DIR recognized 664 DOSH positions with 69.5 vacancies – of these vacancies, 7.8 vacancies are held open for “forced savings,” 21 positions are held open for “Federal sequester,” and the “available to fill” positions total 40.7 positions.
- January 2014: Governor Brown’s Proposed FY 2014/15 projects the number of DOSH positions will be 722.4 for the current fiscal year and 726.9 next fiscal year. This means the number of DOSH vacancies this year are 127.7 positions, based on the number of filled positions in November 2013.
- January 2014: Governor Brown’s Proposed FY 2014/15 would fund 26 Cal/OSHA positions and abolish 5.5 Cal/OSHA positions of the “31.5 existing, unfunded positions”. It is not clear why there are only 31.5 vacancies to be filled in DOSH when there were 40.7 DIR-recognized vacancies in November 2013 and 127.9 vacant positions in the proposed 2014/15 budget itself.
- Enforcement staffing increase: maximum of 10 Compliance Safety and Health Officers for general enforcement; 2 field inspector positions for Mining & Tunneling; DOSH’s Process Safety Management unit will gain 12 CSHO positions. 5.5 other DOSH positions will be abolished.

**Cal/OSHA positions to be filled or abolished**

Enforcement – Vacant Positions to be Filled:

- 1 Deputy Chief for Enforcement
- 3 Senior Safety Engineers (promotions will create 3 ASE vacancies)
- 7 Associate and Assistant Safety Engineers
- 3 Office Technicians and Office Assistant

Enforcement – Vacant Positions to be Abolished

- 1 Nurse Consultant (Medical Unit)
- 1 Special Assistant
- 1 Associate Government Program Analyst
- 1 Office Technician
- 0.5 Student Assistant

Mining & Tunneling – Vacant Positions to be Filled

- 1 Senior Safety Engineer (promotion will create 1 ASE vacancy)
- 1 Associate Safety Engineer
- 2 Office Technician

Consultation Service – Vacant Positions to be Filled

- 2 Area Managers (promotions will create 2 ASE vacancies)
- 3 Associate Safety Engineers
- 1 Office Technician

Consultation Service – Vacant Positions to be Abolished

- 1 Office Technician

Targeted Inspection & Consultation – Positions to be Filled

- 2 Office Technicians

PSM Unit – New positions to be filled

- 10 Associate Safety Engineers
- 1 Associate Government Program Analyst

PSM Unit – Positions to be “redirected” from other DOSH units

- 4 positions will be eliminated in other DOSH units – unclear if they will be replaced with new hires – to create 1 District Manager and 2 Associate Safety Engineer positions in the PSM Unit and 1 Career Executive Assignment II position in DIR.