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## Cal/OSHA's disappearing field inspector positions: What the California Legislature gives, the Brown Administration takes away

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In late 2017, California Governor Jerry Brown's Department of Finance instructed the Department of Industrial Relations to cut 21 Cal/OSHA field inspector positions. The workplace safety and health inspectors are essential to the California Division of Occupational Safety and Health's program to protect workers against injuries, illnesses and death. The elimination of these positions is now underway. These cuts reverse years of public and legislative efforts in the State to bring California's OSHA program up to the staffing levels of federal and neighboring states' workplace safety agencies.

By March 2018, Cal/OSHA was stripped of [16 field enforcement positions](#), with at least another five to be eliminated by June 30<sup>th</sup>. The offices most affected by the cuts are ones that respond to worker complaints about



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unsafe conditions and investigate serious injuries and deaths.

- Region I – the San Francisco Bay Area – has lost 4 positions to date;
- Regions III and IV – Los Angeles to San Diego – have lost 7 positions so far; and
- The statewide High Hazard Unit with offices in Oakland and Santa Ana has lost two positions.

In addition to lost field inspector positions, several of these district offices do not have filled District Manager positions.

In Region I, three of its five District Offices have been without a District Manager for months – Fremont since June 2016, Oakland since June 2017, and San Francisco since September 2017. In Region IV, the Monrovia District Office also has been functioning without a District Manager since August 2017. Both offices of the statewide High Hazard Unit have been without a District Manager for more than eight months as well.

District Offices without a District Manager must assign an inspector to be “Acting District Manager,” reducing again the number of field inspectors available able to respond to worker complaints and accidents.

California has often been held up as the best state operating its own OSHA program. (Twenty-one states have their own OSHA programs.) However, California has never had the enforcement resources needed to effectively implement its safety regulations. Now positions are being cut at the direction of the Governor’s office just as new workplace protections are coming into effect.

### **Brown Administration’s history of understaffing**

In January 2011 when Jerry Brown started his second term in office as California’s Governor, he inherited from Republican Governor Arnold Schwarzenegger 195 field

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enforcement inspectors, called compliance safety and health officers or CSHOs, at Cal/OSHA. By January 2013, only 167 of these 195 CSHO positions were still filled, due to retirements and transfers. In fact, Cal/OSHA would not have the same level of filled CSHO positions as what existed under Schwarzenegger until November 2015 – nearly four years after Governor Brown took office for the second time.

Efforts by Brown's first Cal/OSHA Chief – Ellen Widess – to fill vacant positions were vetoed by Brown's Department of Finance in early 2012. (Widess was forced out of office in September 2013 for her not being business-friendly enough.) At that time, Cal/OSHA's ratio of inspectors to workers was only 1 inspector per 100,000 workers. That was dramatically less protective than Federal OSHA's 1 inspector to 60,000 workers ratio, and of California's neighboring states of Washington with a ratio of 1 inspector to 28,000 workers, and Oregon's ratio of 1 inspector to 24,000 workers

Occupational health professionals and labor lobbyists in Sacramento noted that California had more Fish & Game Wardens than Cal/OSHA had CSHOs, and argued that state's 19 million workers deserved at least as much protection as California's wildlife.

### **Chevron Richmond fire lights a fire under the Legislature**

In August 2012, Chevron's oil refinery in Richmond, CA, caught fire, almost killing 19 workers who escaped a cloud of flammable vapors just before it ignited. More than 15,000 Richmond residents sought medical attention following the fire that blanketed the community with toxic smoke. At the time, Cal/OSHA's specialized "Process Safety Management" (PSM) unit had total of eight field inspectors to cover the 15 oil refineries and 1,900 other plants using hazardous

chemicals in the state.

In the aftermath of the fire, the California Legislature required the Department of Industrial Relations (DIR) – which controls Cal/OSHA’s budget and hiring – to increase the number of CSHOs in the PSM unit. In the initial legislation, they mandated more CSHOs to enforce safety requirements in the state’s oil refineries; and later legislation required more CSHOs for enforcement in the other 1,900 PSM-designated facilities that use hazardous chemicals.

In March 2018, as a result of this legislative mandate, the PSM unit has 10 CSHOs dedicated to refinery enforcement and 18 CSHOs inspecting the other chemical plants.

In July 2015, the Legislature authorized and approved funding for a significant jump in field personnel for other Cal/OSHA enforcement offices. DIR actually acknowledged in its January 2015 “Budget Change Proposal” that Cal/OSHA was significantly understaffed in comparison to other states and Federal OSHA. It admitted that, as a result, Cal/OSHA could not conduct all the mandatory activities required by state law and Federal benchmarks.

### **State enforcement resources “left on the table”**

However, over the last three years, DIR has failed to fill the approved and fully-funded CSHO vacancies in Cal/OSHA. In the process, DIR has left more than \$13 million in state enforcement resources “on the table.” In other words, [millions of dollars have gone unused](#).

According to the agency’s own monthly organization chart, during the state’s 2015-16 fiscal year, there were an average of 42 empty CSHO positions. During the 2016-17 fiscal year, unfilled vacancies averaged 28 CSHO positions a month; and in the first six months of the current fiscal year, there has been an average of 34.5 empty CSHO positions. The high water mark of Cal/OSHA’s total field enforcement

positions [was reached in August 2017](#) with 254 CSHO positions. But 42 of these positions were vacant, leaving only 212 inspectors for a workforce of 19.2 million in the sixth largest economy in the world.

Now, despite the more than \$13 million in “salary savings” over three years, Governor Brown’s Finance Department has ordered the elimination of CSHO positions.

### **Why so many unfilled CSHO positions?**

California has a cumbersome and lengthy public employee hiring process. DIR made the problem worse with revisions to the hiring process that clogged the system with unqualified candidates. Cal/OSHA’s district managers did not want to hire unqualified applicants, so they preferred to wait to see if better candidates would appear in the next round of applicants. As the number of vacancies swelled, the state’s personnel unit, Cal HR, stepped in and took control of the process, including the hiring exams. The changes generated better candidates but at an even slower pace.

But there is also a political problem beyond administrative procedures. Governor Brown has a notoriously schizophrenic attitude to major corporations, such oil companies. He denounces them as the cause of climate change while at the same time he has taken millions in campaign contributions from them, fired regulators who did not issue fracking permits fast enough, and lifted clean-up requirements during oil spills.

In addition to being a “small government” Democrat, there is little evidence that Governor Brown wants robust regulatory agencies that are an anathema to his campaign contributors.

DIR Director Christine Baker is a “loyal team player” for Brown. She is anxious to keep the Governor’s contributors

happy, and also promotes the Chamber of Commerce mantra that the vast majority of employers do the right thing on worker safety – or would if they knew how. Thus, the proper role for Cal/OSHA is to provide compliance assistance and consultation to employers. Only the small handful of “bad actor, low road” employers, the manro goes, should be targets of enforcement actions. Ensuring that all available enforcement positions at Cal/OSHA are filled does not fit this business-friendly approach.

Ironically, Cal/OSHA’s free, non-enforcement Consultation Service has never had more than 45-50 consultants in the field for more than the 1 million workplaces in California. The Consultation roster of positions is also subject to the Finance Department’s cuts.

### **Cautionary tale for workers everywhere**

California Democrats pride themselves on the fact that the state has enacted some workplace safety regulations that cover more hazards and some with stricter protections than those of the federal government. But Cal/OSHA has never been granted the resources it needs to effectively enforce these regulations. After multiple administrations and legislative leaders, this cannot be viewed as an oversight – it is deliberate policy.

The current Democratic Governor and Legislature are a case in point. For the first four years of Jerry Brown’s second administration (2011-2015), Cal/OSHA actually had fewer compliance officers in the field than under Republican Governor Arnold Schwarzenegger, and fewer inspectors to workers than Federal OSHA and neighboring states. There were and still are more Fish & Game wardens than there are CSHOs in California.

When industrial disasters and public pressure finally prompted the Governor to propose, and the Legislature to fully fund, an increase in the field enforcement officers, the

Governor's appointees at DIR and DOSH failed to fill the available positions, leaving more than \$13 million in state resources to protect workers "on the table" unused.

In March 2018, Cal/OSHA has an inspector to worker ratio of [1 inspector to 87,926 workers](#) – much worse than Washington state's 1 to 25,000 and Oregon's 1 to 22,000. In 1980, Federal OSHA had a ratio of 14.8 inspectors per million workers covered by the agency. Thirty-eight years later, Cal/OSHA has a ratio of 11.4 CSHOs per million workers in the state.

Now the Brown Administration is reversing course and CSHO positions are being eliminated, and there are still CSHO vacancies in Cal/OSHA.

It should also be noted that the 10 CSHOs dedicated to inspecting California's oil refineries do not conduct inspections outside of these 15 workplaces, and are funded by a separate, stand-alone fee on the state's refineries.

The enforcement cuts to Cal/OSHA enforcement roster are bad for workers in California, of course, especially at a time when new worker protections in health care, hotels and other workplaces are coming into effect. Moreover, there are plenty of "old" regulations that have [inadequate regulatory oversight](#) as well.

The cutbacks in "blue state" California are also bad for workers covered by Federal OSHA and the 20+ other state plans because they set a bad precedent for weakening worker protections precisely when using all available resources to protect working people is under attack by the Trump Administration, and Republicans and corporate Democrats in other states.

## About the Author: Garrett Brown --- ---



Garrett Brown is a certified industrial hygienist who worked for Cal/OSHA for 20 years as a field Compliance Safety and Health Officer, and then served as Special Assistant to the Chief of the Division before retiring in 2014. Since retiring, Brown continues to follow Cal/OSHA issues and established the “Inside Cal/OSHA” website at <http://insidecalosha.org> . Brown also has been the volunteer Coordinator of the Maquiladora Health & Safety Support Network since 1993 and has coordinated projects in Bangladesh, Central America, China, Dominican Republic, Indonesia, Mexico and Vietnam.

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