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THE STATE WORKER

# Newsom stays silent on Cal-OSHA staffing crisis as legislators and advocates call for action

BY MAYA MILLER  
MARCH 13, 2024 5:00 AM

'A dark place.' Former construction worker talks about struggles with health after injury



Carlos Castro talks in December 2023 about how he thinks a more active Cal-OSHA agency could have helped prevent the construction injury that paralyzed him from the chest down.

BY PAUL KITAGAKI JR.



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California lawmakers and labor leaders are calling for change within the state's workplace safety agency following a [four-month Sacramento Bee investigation](#) into the organization's hiring practices.

The Bee's reporting found numerous troubling examples of how a staffing shortage within the Division of Occupational Health and Safety, also known as Cal-OSHA, causes serious harm both to state employees and California's front-line workers.

Of the more than 920 positions listed in Cal-OSHA's most recent organization chart, about a third were vacant. Current and former employees say the lack of staff in the enforcement branch translates to fewer on-site safety inspections and less employer accountability.

The unit that investigates criminal negligence in workplace accidents only has two investigators for the entire state. Given the tremendous case load they bear, they're only able to open criminal probes into fatal workplace accidents. Employees who lose body parts or are permanently paralyzed will likely never know if their employers were criminally liable for their life-altering injuries.

Legislators, worker advocates and even current and retired state employees have called on Gov. Gavin Newsom and his administration to take serious action.

#### TOP VIDEOS



But so far, there's been only silence from the governor's office. Repeated calls, voicemails and emails to his communications director Erin Mellon to discuss the situation at Cal-OSHA went unanswered.

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Democratic lawmakers such as Assemblywoman Liz Ortega of Hayward and Senator Dave Cortese of San Jose say the Legislature only has so much power to change hiring practices within state agencies. Without buy-in from Newsom and the executive branch, the problem won't go away.

"It takes the gravitas of the governor's office," Cortese said. "There's a limit to what we can do as a Legislature when it comes to bureaucratic reform. A lot of that has to come from him, because that's what an executive branch does. It has to run its own agencies."

## LEGISLATORS KNOW THEIR LAWS WON'T ENFORCE THEMSELVES

While Ortega has called for an audit of Cal-OSHA, Cortese argues that the historical evidence should be enough to give lawmakers a sense of the issue. Although an audit would provide a truly independent assessment of the situation, such a probe takes time. And for California workers, time is of the essence.

"The bottom line is, we know what the problem is," Cortese said. "And I think we know that there needs to be a dramatic urgency around hiring."

Critics of Cal-OSHA have pointed out that California's world-class labor standards don't do much good if they aren't enforced. The understaffing hinders the agency's ability to hold employers accountable to the groundbreaking labor laws that legislators such as Cortese and Ortega work to enact.

"Past legislation is not being complied with, let alone what we're thinking about for new legislation," Cortese said. "And Cal-OSHA is the one that's supposed to be going out there and enforcing that."

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Last year, Cortese sponsored a bill that required all employers to adopt workplace violence prevention plans. The bill, which Newsom signed in September, came in response to the 2021 workplace mass shooting at a railyard in his San Jose district.

Given Cal-OSHA's staffing issues, Cortese doesn't know how many workers will actually benefit from the new law.

"What are the chances that that's going to get enforced well enough to actually elicit compliance?" Cortese said.

Instead of solely responding to worker complaints, Cortese says Cal-OSHA should be entering workplaces and conducting proactive, preventive inspections. But right now, overburdened inspectors don't have time for such visits.

### **WILL NEWSOM WEIGH IN ON CAL-OSHA'S STAFFING PROBLEMS?**

Cortese says he hasn't sensed unusual reticence from the governor's office on the Cal-OSHA issue thus far. But time is running out for Newsom to take action.

"If he wants this done by 2026, it's going to require him pulling out all the stops in terms of his executive powers," Cortese said. "Clearly it goes beyond hiring a few new people at the top and enacting a few reforms."



The senator admits he isn't sure exactly what tools the governor has at his disposal to hasten the hiring process. But given the severity of the staffing shortage, he suggested the idea that Newsom could issue executive orders that exempt Cal-OSHA from California's arduous and lengthy merit-based hiring process.

A precedent for this exists at the federal level. National OSHA struggled for years to fill its "compliance safety and health officer" positions in a timely way. In 2023, according to U.S. Department of Labor spokesperson Frances Alonzo, the federal equivalent of CalHR gave OSHA privileges to expedite its hiring process

This "Direct Hire Authority" has allowed federal OSHA to hire a whopping 68 safety inspectors in the last 12 months, Alonzo said.

In the last three years, Cal-OSHA has managed to hire just 32 people in its enforcement branch (this includes positions other than safety inspectors). [Agency data shows](#) the enforcement branch lost 34 people to retirement, promotions and resignations in that same time frame.

Cortese said if he could speak directly to Gov. Newsom, the top item on his wish list would be to ask the governor to find out if he could issue an executive order to speed up the hiring process for Cal-OSHA and its parent organization, the Department of Industrial Relations.

“That’s it, right there. Period. Full stop,” Cortese said. “I don’t know exactly how much he can do before he exceeds his own authority, but he should be maxing out his own authority right now or in the very near future to straighten this out.”

## **WORKERS’ HEALTH AND SAFETY ARE ON THE LINE**

Ortega said she intends to find a permanent solution to the Cal-OSHA staffing problem – no matter how long it takes. What’s been missing up until this point, she said, is a champion in the Legislature who will commit to prioritizing the issue year after year.

Now, as the chair of the Assembly’s Labor and Employment Committee, Ortega says she will make the health and safety of California’s working people and families her committee’s top priority. She already held a [more than three-hour hearing](#) last month in which Cal-OSHA’s staffing shortage took center stage.

“These issues we’re talking about, they’re not new. They’ve been happening for decades,” Ortega said. “Whether it takes me a year or my entire time in the Legislature, I’m going to prioritize this issue.”

To Ortega, Cal-OSHA’s vacancy rates and the struggles with internal workplace culture came as no surprise. What did shock her, though, was how the lack of adequate staff led to harmful outcomes for California workers and families.

For instance, the Bee’s investigation highlighted the experiences of one San Jose construction worker, Carlos Castro, who was paralyzed from the chest down three years ago when he was crushed by a heavy pipe at his worksite.

Ultimately, Castro’s life-altering injuries weren’t enough to warrant a criminal investigation.

The unit that investigates criminal negligence now only has two staffers for the entire state. Those two investigators only have time to pursue cases in which workers die.

Since Castro survived his accident, his case wasn't considered for a Cal-OSHA criminal probe. No one will ever know whether his employer should have been held criminally liable for his paralysis.

"That story just blew my mind," Ortega said, "and really solidified why I'm doing what I'm doing."

What she doesn't want to have happen is for lawmakers like herself to call hearings, garner media coverage, pass legislation to give the agencies more funding and then watch in disappointment as nothing changes.

Ortega said Gov. Newsom's office called her staff the day of the Feb. 7 hearing and asked to arrange a time

"This wasn't about pointing a finger to any one individual," Ortega said. "This is about identifying a problem and working as a coalition to get the governor on board."

Labor advocates such as Stephen Knight, executive director of Worksafe, say they've called for a better-staffed Cal-OSHA for decades. Knight calls the failure to prioritize worker safety a "costly and avoidable crisis" that needs to end.

"This level of negligence, of deprioritizing enforcement, of undermining state law is taking the burden of health and safety at work *off* of employers – where it belongs – and dumping it *onto* the bodies and well-being of California's working families," Knight said. "And that's bad for California's economy."

Even though the staffing shortage is a longstanding problem, Knight says he's optimistic that now could be the right moment for change. The pandemic drilled home for the importance of health and safety on the job. And as labor-friendly Democrats have gained power in state government, the conditions for change could be just right.

But, Knight added, buy-in from the top is crucial.

“We do need to see leadership from the governor,” Knight said, “that this is an issue that matters to him as much as it matters to California workers.”

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