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**TOXIC SUBSTANCES
COMMISSION**

**CITY OF SACRAMENTO
CALIFORNIA**

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February 19, 1987

Law and Legislative Committee
Sacramento, California

Honorable Members in Session:

**SUBJECT: RESOLUTION REGARDING DEFUNDING OF THE CALOSHA PROGRAM AND ITS IMPACT ON THE
CITIZENS OF SACRAMENTO**

SUMMARY

Governor George Deukmejian's proposed 1987-88 budget calls for a reduction of 362 personnel years in CalOSHA budget. The cuts in worker health and safety programs total around \$8 million dollars from a record state budget of \$39 billion. The Federal government also supports CalOSHA with about \$14 million annually.

The attached resolution describes in detail the impact on workers and citizens this proposed budget cut would impose. The Toxic Substances Commission at their meetings of February 2 and February 17, 1987 discussed this issue and its impact on the citizens of Sacramento. This resolution recommends that the California Legislature provide adequate funding on the 1987-88 State Budget to operate an effective California worker health and safety program and that the Governor reconsider his actions in this matter.

BACKGROUND

The State of California has operated worker health and safety programs for almost 75 years, predating Federal laws adopted in 1970. The stringent protections developed by this state-run program have long benefitted the health and welfare of the citizens of Sacramento.

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California's worker health and safety program provides stricter and wider protection than the Federal OSHA program:

1. CalOSHA regulates over 160 toxic chemicals not covered by Federal standards.
2. California operates several unique worker health programs, including a major toxicological review, consultation and general education resource in the Hazard Evaluation System and Information Service (HESIS).
3. While less than adequate, California still has a more effective record of enforcement than Federal OSHA.

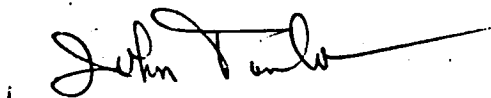
In addition this proposed budget cut will:

1. Likely hinder implementation of Proposition 65.
2. Eliminate "Hazard Alerts" on chemicals that new data may show to be a health concern.
3. Reduce the effectiveness of employee training programs on the use of toxic materials.
4. Possibly weaken the City's Hazardous Materials Disclosure Ordinance, Underground Storage of Hazardous Substances Ordinance and AB 2185 (community right to know and emergency preparedness).

RECOMMENDATION

The Toxic Substances Commission recommends that the Law and Legislative Committee adopt the attached resolution.

Respectfully submitted,


for Robert B. McCray
Chairman, Toxic Substances Commission

RBM:mbj

RESOLUTION No.

Adopted by The Sacramento City Council on date of

RESOLUTION REGARDING DEFUNDING OF THE CALOSHA PROGRAM AND ITS IMPACT ON THE CITIZENS OF SACRAMENTO:

WHEREAS: California is allowed, under Federal laws, to operate a worker health and safety program because it has demonstrated the ability and willingness to operate a program at least as effective as the Federal OSHA program. Such agencies, with "state plans" certified as providing acceptable staff, resources and activities, may adopt more stringent standards than provided under Federal regulations. These states are also exempted from certain Federal preemptions, including the area of worker right to know. If the goals of a state plan are not met, Federal OSHA can revoke the state's certification and operate a worker health and safety program in that state.

WHEREAS: The State of California has operated worker health and safety programs for almost 75 years, predating Federal laws adopted in 1970. The stringent protections developed by this state-run program have long benefitted the health and welfare of the citizens of Sacramento.

WHEREAS: Governor George Deukmejian's proposed 1987-88 budget calls for a reduction of 362 personnel years in the CalOSHA budget. The cuts in worker health and safety programs total around \$8 million dollars from a record state budget of \$39 billion. The Federal government also supports CalOSHA with about \$14 million annually.

WHEREAS: California's worker health and safety program provides stricter and wider protection than the Federal OSHA program:

1. CalOSHA regulates over 160 toxic chemicals not covered by Federal standards. Sacramento, and California industry in general, is highly dynamic and innovative. Many exotic chemicals are used here that are not widely disseminated nationally. Maintaining a state program allows California the ability to set priorities to meet its own particular needs. Some 35 of 160 these chemicals are pesticides, for example. According to Ron Rinaldi, the state's Director of the Department of Industrial Relations, all California standards become null and void if the Federal government takes over.

2. California operates several unique worker health programs, including a major toxicological review, consultation and general education resource in the Hazard Evaluation System and Information Service (HESIS). Also cut is the CalOSHA Special Studies Unit which conducts industry wide studies to determine the feasibility and effectiveness of control

measures. The Right to Know Unit maintains a database of Material Safety Data Sheets (MSDS's). The Federal Hazards Communications standard does not even require manufacturers to submit MSD's for review for adequacy.

3. While less than adequate, California still has a more effective record of enforcement than Federal OSHA. CalOSHA operates a Bureau of Investigations, which has worked on at least one dozen cases with Los Angeles District Attorney's office to obtain successful criminal prosecution. Even when this unit did not refer cases to the DA, they assisted. According to a source in the District Attorney's office, only one of 12 cases could have been prosecuted without CalOSHA participation. In comparison, the entire Federal OSHA has referred 27 cases to the Justice Department since 1970. Since the beginning of the Reagan administration, only 2 referrals have been made. None of these cases resulted in a criminal penalty.

In a glaring example of the poor quality of Federal enforcement, an Illinois local prosecutor obtained a murder conviction against the owners of a company that had been cited only months before by Federal OSHA for a lesser violation of failing to report workplace related illnesses. Had Federal enforcement officials followed up by visiting the factory, they would have prevented needless death. Furthermore, CalOSHA inspectors can "yellow tag" imminent hazards in the workplace. Under Federal OSHA, a time consuming delay occurs while a court order is sought.

WHEREAS: Threats to the health of workers are a vital concern to Sacramentans, not only morally, but economically. The Commission on Economic Development cites 2,500 cancer deaths per year in California as a result of toxics - but most of these will occur as a result of workplace exposure to asbestos. As Sacramento industry innovates, more exotic toxins are entering into our workplaces. More serious injuries and illnesses will occur. Where businesses try to obtain a business advantage through cutting safety and health, workers will suffer more. Inadequate enforcement and standards favor unethical practices. Furthermore, less than 2% of all those suffering from occupational disease are compensated by the Workers Compensation system. Instead, these citizens receive support from private insurance, Social Security and Welfare.

WHEREAS: Many community toxics threats are caused by an advanced problem inside the workplace that's getting out:

1. CalOSHA budget cuts will likely hinder implementation of Proposition 65. The Governor's newly named Prop 65 coordinator is Tom Warriner; despite his assurances at a hearing held by Senator Torres on January 15, it is not certain that the Federal preemption of state worker right to know laws (in non state plan states) may not affect references to the Labor Code in Proposition 65.

2. Budget cuts in HESIS will dump the toxicologists most qualified to guide the development of the lists of substances covered by Prop 65. Several of the staff in this unit participated in the development of the state's carcinogen policy. Other units in state government, such as the

Community Toxicology Evaluation Unit, do not have staff with the experience or scope to develop the corresponding reproductive toxins policy needed to make Prop 65 work.

3. Units such as HESIS, which will be completely cut under this budget, provide services that impact or are directly useful to communities, as well as workers. For example, HESIS issues Hazard Alerts when reviews of literature on chemicals shows new data that may warrant new concerns or actions on a chemical. In 1982, HESIS reviewed some 50 studies on the solvent TCE, concluding that both community and workplace standards are set too high for health protection.

4. HESIS responds to inquiries regarding chronic toxics exposures from employers, employees, local officials and community residents. HESIS received 8,000 such calls; last year the agency received an increase in calls of 40%. Most were from workers and employers, and 1/3 concerned exposures to pregnant women. Through this phone service, HESIS is able to provide advice, counsel workers whose minor exposure to a toxic chemical may lead them to unnecessary worry, and to define patterns of repeating health problems. HESIS provides training in recognizing occupational and environmental disease to employers, employees, and such groups as the American Lung Association and the American Cancer Society. HESIS also aids other state programs, including standards development.

WHEREAS: Chemicals don't stop at the plant gate. The first, and potentially most effective prevention program for community exposures to toxic chemicals comes from ensuring a safe workplace. A workplace where workers are unnecessarily and improperly exposed to toxic chemicals will likely eventually contaminate the community around the plant. A well organized, targetted inspection and enforcement program will do much to prevent that.

1. The end of the California worker right to know program means that many employees using toxics in industries not covered by the Federal Hazards Communication Standard (it currently applies only to manufacturing) will be less likely to be properly trained to handle those materials. This increases dramatically the potential of Bhopal type releases and for improper disposal of hazardous materials. Worker right to know is the only legislatively mandated program for toxics education, and potentially an extremely effective tool.

2. Federal preemption of state standards will most likely have an impact on California legislation designed to limit community exposure. Because the best toxicological information available is that derived from occupational exposures, some the key lists of toxics required in the state are developed in the Labor Code. One of these is the "Director's List of Hazardous Substances," contained in the Hazardous Substances Information and Training Act of 1980 (Worker Right to Know). This list is specifically referenced in the City's Hazardous Materials Disclosure Ordinance. State laws, such as AB 1362 (underground tank storage) and AB 2185 (community right to know and emergency preparedness), both of which are implemented by the City of Sacramento will be weakened by this preemption.

THEREFORE, BE IT RESOLVED: That the City of Sacramento calls on the California Legislature to provide adequate funding in the 1987-88 State Budget to operate an effective California worker health and safety program.

THEREFORE, BE IT RESOLVED: That the City of Sacramento urgently requests the Governor to reconsider his actions in this regard.