

Cal-OSHA layoffs begin despite ruling

By SIGRID BATHEN

Recorder Capital Correspondent

SACRAMENTO — Disregarding a Sacramento Superior Court judge's opinion that Gov. George Deukmejian does not have the authority to dismantle the state Occupational Safety and Health Administration (Cal-OSHA), state officials have sent layoff notices to 22 employees of the embattled agency.

Administrative law judges, safety engineers, legal assistants and analysts and clerical personnel of the Cal-OSHA Appeals Board and the Cal-OSHA Standards Board received the notices by mail or by hand on Monday and Tuesday.

The action was greeted with outrage by attorneys representing affected employees.

"The action is unjustified and

will certainly impair the ability of the agency to function in the event the administration is ordered to continue the program by a court," said Lawrence Newberry of Blanning & Baker in Tujunga. He represents several public labor groups with members affected by the cuts.

"It's a very precipitous action in view of the uncertainty of [the governor's] legal position," he said. "It certainly doesn't bode well for the enforcement of Cal-OSHA in the interim period."

Deukmejian announced in January that he intends to turn over enforcement of the state's worker safety program to the federal Occupational Safety and Health Administration, cutting 366 state jobs to save \$8 million annually. His decision met with a

storm of protest, including two lawsuits and action by both houses of the state Legislature to restore the cuts.

Ron Rinaldi, director of the state Department of Industrial Relations and the governor's chief spokesman for the proposed cuts, said additional layoff notices will be sent following completion of a state Personnel Board-mandated review of the impact of the cuts on minorities. Rinaldi said the governor has no plans to change his position on the cuts.

Both boards are appointed by the governor and employ civil service staff. The appeals board hears employer appeals of OSHA citations, and the standards board sets state worker safety standards. Under state personnel rules, board employees must

receive 30 days notice before being laid off. The governor plans to turn over Cal-OSHA enforcement to the federal government at the beginning of the new fiscal year July 1.

Newberry filed suit in San Francisco on behalf of several employee groups, including the Association of California State Attorneys and Administrative Law Judges, the Professional Engineers in California Government and the California Association of Professional Hygienists.

Superior Court Judge Roy Wonder in April refused to issue a preliminary injunction against the cuts.

Sacramento Superior Court Judge Roger Warren ruled May 22 in another lawsuit against the governor that Deukmejian does

not have the authority to turn over OSHA enforcement to the federal government.

"Federal law does not authorize the governor to voluntarily withdraw a state's OSHA plan where such withdrawal is not authorized by the law of the state," Warren said.

But the judge emphasized that he was not ruling on the merits of the governor's proposal, only on the governor's authority to carry it out without legislative concurrence.

San Francisco attorney Joseph Remcho of Remcho, Johansen & Purcell, who represented the 39 plaintiffs in the Sacramento suit, said after the May 22 ruling that he would ask for "other, more coercive relief" if the governor did not withdraw his OSHA proposal

within two weeks.

Lowell Finley of the Remcho firm said other action is planned to halt the cutbacks, but would not give specifics until a final decision is made by the firm Friday.

Since January Cal-OSHA employees have been leaving the agency for other jobs. Of 78 industrial hygienists employed by Cal-OSHA to investigate worker health violations, 27 had left by the end last month. Of 23 positions authorized for the appeals board, only 10 persons remained to receive layoff notices. At the standards board, of 21 positions, 10 remained to receive notices. Some management positions are immediately affected.

Cal-OSHA officials insist on enforcement of state worker safety

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standards — widely regarded as far stronger than federal standards — is continuing despite the cutbacks. But others disagree.

One Cal-OSHA employee who asked not to be identified said the layoff notices have created a "disruptive" atmosphere among employees.

"The notices were mailed or served on employees because the department needed to get the 30-day clock started," that employee said. "It's very difficult for employees [to do their jobs]. We have been able to conduct business as usual because of the dedication of our employees, but I don't see how we can continue now. It's been very disruptive."

If the cutbacks are allowed to continue,

Cal-OSHA will be reduced from 27 offices to three or four for "public sector" enforcement — a small part of its responsibility — and consultation services.

By contrast, the federal OSHA program plans five area offices with approximately 150 employees. Cal-OSHA currently employs about 500 employees, including more than 200 field inspectors to investigate complaints.