

# Deukmejian High Court Takes Cal-OSHA Abolition Challenge

BY SIGRID BATHEN

RECORDER CAPITAL CORRESPONDENT

SACRAMENTO — In an order signed by five justices named to the California Supreme Court by Gov. George Deukmejian, the court Thursday set aside an appellate court ruling that Deukmejian acted illegally in eliminating the state's worker safety program.

The governor had appealed the October ruling in *Ixta v. Rinaldi*, 195 Cal. App. 3d 886, by the Third District Court of Appeal in Sacramento. The Supreme Court has not set a hearing date on the appeal, but it is unlikely the case will be heard — and decided — before the next state budget takes effect July 1.

The high court's action leaves in place the governor's controversial move last year to abolish the California Occupational Health and Safety Administration at least through the end of this fiscal year.

The order was signed by Chief Justice Malcolm Lucas and by Justices Marcus Kaufman, David Eagleson, Edward Panelli and John Arguelles — all Deukmejian appointees — and by a sixth justice, Allen Broussard, an appointee of former Gov. Edmund G. "Jerry" Brown Jr.

order was not signed by Justice Stanley Mosk, who was appointed by

former Gov. Edmund G. "Pat" Brown. Deukmejian greeted his first major legal victory in the Cal-OSHA controversy with a mixture of relief and cautious optimism.

"I'm pleased that they have agreed, since we were the moving party," Deukmejian told a Sacramento Press Club meeting Thursday after the governor learned the court decided to hear the case.

Despite the enormous public and official outcry against his decision, Deukmejian stood by his action.

"I don't regret it one bit," he said in response to a reporter's query. "The reason it has become a brouhaha is that it has been exploited as a political issue. These [critics] are the same people who say for years that Cal-OSHA wasn't doing its job, and now they're saying it's the best program that ever existed."

Despite widespread claims to the contrary, Deukmejian said federal enforcement of worker-safety laws is adequate.

In a hearing of the Assembly Labor and Employment Committee last month, committee chairman Richard Floyd, D-Lawndale, said more than two-thirds of recently appealed cases remaining from Cal-OSHA were dropped or settled "for ridiculously small amounts" and that worker safety has been compromised as a result.

Ronald Rinaldi, Deukmejian's director of the Department of Industrial Relations, of which Cal-OSHA is now a small part, said the appeals were handled properly.

Deukmejian left some \$1.8 million in the current state budget for transition from Cal-OSHA to federal enforcement, and the state agency retains jurisdiction over limited worker-safety areas in the public sector, as well as elevators, ski lifts and "pressure vessels" such as boilers.

Rinaldi said he was not surprised by the court's decision to hear the case. "I felt the [appellate] court's decision was wrong," he said.

Britton "Jerry" McFetridge, consultant to the Assembly Subcommittee on Worker Safety, reacted angrily to Deukmejian and Rinaldi's comments. "[Cal-OSHA] was the best program in the nation before the governor's wrecking crew got in there," McFetridge said. "And even after five years of neglect it was superior to federal OSHA in every instance."

He said the court's decision to hear the case "means it's going to be a longer fight, but we will prevail." He said the presence of a Deukmejian-appointed majority on the court would not influence its decision. "I don't believe the court would come down with a political decision."

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sion on a major constitutional issue," McFetridge said.

The court's final decision will turn on the governor's authority to veto specific appropriations in the state budget as approved by the Legislature. The appellate court held that — although the governor has the authority to exercise his line-item budgetary veto — he does not have the authority to exercise program decisions with that veto.

Deukmejian had vetoed \$7 million in the budget of the state Department of Industrial Relations and specified that the money remaining in the department budget not be used for Cal-OSHA.

In making its ruling, the appellate court relied heavily on a recent California Supreme Court decision, *Harbor v. Deukmejian*, 176 Cal. App. 3d 813, which held that Deukmejian did not have the authority to veto a section of a 1984 budget "trailer bill" — an omnibus measure used to put the state budget into effect. The court also questioned the use of the trailer bill concept, saying it violated the single-subject rule governing legislation.

"What this suit is really about is separation of powers," said Ralph Abascal, general counsel for California Rural Legal Assistance, who filed the suit in behalf of farm laborers and other workers, commenting on the appellate court decision last October. "The governor has usurped the Legislature's prerogative by legislating through the blue-pencil."

On Thursday, Deukmejian said the issue before the court is "one of the separation of power between the legislative and executive branches. That issue is paramount as to whether we should have a duplicative program."

The Associated Press contributed to this article.