



Economic & Employment

ENFORCEMENT COALITION

REPORT TO THE
CALIFORNIA JOINT LEGISLATIVE
BUDGET COMMITTEE
&
DIRECTOR OF THE CALIFORNIA
DEPARTMENT OF FINANCE

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PREPARED BY THE



ACTING SECRETARY DOUG HOFFNER



Members & Contributing Agencies



MISSION STATEMENT

Economic & Employment Enforcement Coalition (EEEC) is a partnership of state and federal agencies, collaborating for vigorous and targeted enforcement against unscrupulous businesses. EEEEC aids in leveling the playing field while restoring competitive advantage to law abiding businesses and their employees.

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Following is the Economic and Employment Enforcement Coalition's (EEEC) Report to the California Joint Legislative Budget Committee and the Director of the Department of Finance. I am proud to be able to say that this Report clearly shows not only the consistent success of the EEEEC's operations, but also the importance of making it a permanently funded program to continue its effort in combating California's illegal underground economy.

As you will see, during the four years since it first began its operations, the EEEEC has proven itself to be effective in targeting, citing, and prosecuting the most adverse business offenders operating in the underground economy. EEEEC has also become highly successful in providing education to those who wish to learn how to come into full compliance with California's wage, hour, safety, licensing and employment related tax requirements. This is being accomplished through extensive industry specific outreach activities throughout the State.

Since its operations began in mid-2005, EEEEC's dedicated teams of investigators have inspected over 5,500 employers in those industries most likely to have substantial illegal underground operations. EEEEC accomplished this with a total workforce of only 66 personnel from a number of different enforcement agencies, division, and departments, all working together toward a common goal. Those targeted inspections have resulted in over 18,700 citations and violations, amounting to over \$38.7 million in penalties and assessments.

EEEC's consistently evolving targeting procedures have brought the number of citations and assessments to an average of almost four per inspection. This high ratio clearly shows that EEEEC is focusing on the worst offenders while limiting interference in the business operations of those employers who are in compliance with our state employment, safety, and tax laws. EEEEC (with the US Department of Labor) has identified and assessed \$8,242,715 in wages owed to employees. To date, the EEEEC has collected \$4,415,260 of those monies owed to the employees. EEEEC's targeting effectiveness is further supported by 823 criminal referrals made by it to local district attorneys and the 431 criminal convictions that have resulted to date.

From the tax side, EEEEC's operations have identified almost \$300 million in unreported wages resulting in over \$46 million in assessed employment tax liabilities. The related tax audits have identified over 15,000 previously unreported workers, with many audits still ongoing.

Most importantly, EEEEC's recently established program of follow-up audits based on randomly selected samples of previously cited businesses, has shown that 82 percent have either come into compliance (41 percent), gone out of business (31 percent), or been sold to new owners who are in compliance (10 percent).

Secretary's Message

Simply put, EEEEC has proven itself to be highly successful in accomplishing its mission of vigorous targeted enforcement against unscrupulous businesses that unfairly compete with law abiding businesses operating in California. This was done with a minimum of disruption to the business activities of legally operating employers while accomplishing high public awareness of the serious consequences of electing to intentionally violate the State's employment, safety, and tax laws. EEEEC has managed to do all of this at very low cost due, in great part, to the efforts of EEEEC's highly trained, motivated, and dedicated team members. It is now time to provide EEEEC, its employees, the public, law-abiding employers, and California's low wage workers in these traditionally underground economy industries, with the program permanence that is necessary for continued success.

In a small interior room, on the 8th floor of a large building that was long-ago a large department store in downtown Los Angeles; six workers are sewing together pieces of dresses for a designer name clothing manufacturer. These workers are being paid piece-rate in an amount that will not allow many of them to earn the California statutory minimum wage of \$8.00 per hour. Upon questioning, we find that they are required to provide their own tools in the form of scissors and various sizes of necessary sewing machine attachments. The supervisor claims that he does not know who the owner of the operation is and that he was not aware that he is required to possess a valid garment registration certificate issued by the Labor Commissioner. In any event, he would be unable to obtain one because he does not have the legally required workers' compensation insurance coverage. We notice there are almost no finished products in the room, this is because the employer knows such products could be confiscated if found and are, therefore, regularly removed to an undisclosed licensed manufacturing operation somewhere in the same building.



A restaurant has filed tax reports with EDD indicating that it employs six workers. We visit the location and determine that there are actually 18 people employed there. All but six of the workers are being paid in cash with no deductions being taken or any employment taxes being paid by the employer. All the employees are being paid minimum wage for eight hours per day, five days per week. However, all are actually working 10 hours per day, six days per week with no straight time or overtime pay for any hours over 8 per day and 40 per week.



The Stark Reality

In a vacant lot, an employer has set up a wooden pallet repair operation. He has done this without any permits or licenses and with no utility connections. Instead, he is using a highly unsafe, 220 volt gasoline generator which sits in the mud. Work stations have been “constructed” by piling up old pallets where eight workers are reconstructing damaged pallets using parts from other old unrepairable ones they have disassembled using a large unguarded band saw to cut through the old nails. Each employee has also been provided an electric skill saw that has had its protective blade guard removed or disabled. There are no toilet facilities or clean drinking water available at the site. The employees tell us they work ten hours per day, Monday through Friday, and four hours on Saturday. When we ask the owner for the time records for the employees, he informs us that there are no employees at the site as all are independent contractors who are paid 50 cents in cash for each pallet they repair. One of the workers shows us that he is missing a finger. He explains that he lost it on an unguarded power saw at a former pallet repair facility where the owner gave him \$200 and told him to go to the county hospital emergency room and tell them that he had no money and had accidentally cut it off a home. When he recovered and returned to work, the owner told him he had been replaced and was no longer needed. He then came to work at the present location. At a second pallet repair facility we are denied access by the owner. When we return with a warrant and local police, the owner admits he has been operating at this same location for 20 years and has never paid any payroll taxes or had any workers’ compensation insurance. We also find that he is paying only \$200 per week to employees regularly working up to 45 hours.



In the city of Downey a realtor posing as a general construction contractor is building a large custom home. He has 3 - 4 sub-contractors working at the site. When the EEEIC inspectors inform him that they intend to conduct an inspection, he becomes visibly upset, physically pushing one of the female agents. The local police are called. It soon appears evident why the employer is so concerned. None of the “contractors” are licensed. None have required workers’ compensation insurance. All of the employees are being paid in cash without any of the required deductions being taken. None of the employers are making any of the required reports to EDD or making any of the tax payments required by law. In addition, numerous serious safety violations are found. These include illegally constructed “racket” scaffolds attached with only a few nails holding them in place, hanging out of windows 15 – 20 feet above an



The Stark Reality

iron rod fence with spear-like tips. Also present are unguarded power saws and many serious electrical hazards.

In an agriculture field near Coachella, it is 1:15 in the afternoon and the temperature is in excess of 110 degrees. A crew of eight workers is observed weeding a field of okra. There is no shade anywhere in the vicinity of the field. Upon inspection by the EEEEC investigators it is discovered that there is also very little water, no heat illness emergency response plan and heat illness prevention training has not been provided to any of the workers or their supervisor.



The preceding scenarios are all actual examples of illegal “underground” business operations. These examples of illegal activities are encountered on a regular basis by the enforcement officers of the EEEC in their year-round statewide sweeps of traditionally low wage industries. These are excellent examples of how such employers who are operating illegally can effectively and profitably undercut the legitimate businesses who, in good faith, comply with all required California wage, hour, safety, licensing, and tax laws.

The problem of the underground economy in California is one that is not new. Nearly 25 years ago the Commission on California State Government Organization and Economy (“Little Hoover Commission”) issued a 58 page report titled *A Review of Selected Taxing and Enforcing Agencies’ Programs to Control the Underground Economy*. (August 1985) In their report the Commission stated:

“The underground economy costs the State of California billions of dollars each year. Although it can probably never be eliminated, a small percentage of reduction can mean hundreds of millions of dollars in increased revenues for additional State services or to reduce the liability of the honest taxpayer. These revenues will be realized both directly through additional taxes, penalties and interest, and indirectly through increased voluntary compliance.” (page viii)

For decades, California has had some of the strongest labor and workplace safety laws in the nation. Business owners who elect to operate in the “underground economy” gain an unfair advantage over law-abiding employers through a number of illegal techniques including the following:

- Failure to report and pay employment taxes on their payrolls.
- Failure to purchase and/or maintain mandatory workers’ compensation insurance.
- Paying employees “under-the-table” in cash that is not reported to any governmental taxing agencies and failing to take and/or remit any tax withholdings on their workers’ pay.
- Failure to pay minimum wage, premium overtime, shift-differential, reporting time and other legally required types of wages.
- Misclassifying employees as independent contractors to avoid all employment taxes including unemployment insurance and income taxes.

- Failure to provide a safe place of employment. For example, requiring the use of hazardous tools, equipment, and chemicals; having dangerous electrical systems; not providing clean and adequate toilet and washing facilities; not providing unblocked and unlocked emergency exits; using unsafe scaffolding and failing to provide and require the use of adequate fall protection devices.
- Failure to provide required safety training and illness and injury protection plans.
- Failure to secure required licenses and/or registrations.

The underground economy in California has been conservatively estimated to amount to over \$6.5 billion in just unreported taxable wage income every year (*California's Tax Gap*, 2005 California Legislative Analyst's Office). This \$6.5 billion figure significantly understates the problem given that it does not fully take into consideration the failure of underground businesses to fund the unemployment tax program, the workers' compensation system, employer funded worker safety programs, and the like. The tax gap imposes significant burdens on:

California Taxpayers and Compliant Business Owners

It burdens the State's taxpayers and businesses by causing law-abiding employers to lose jobs to lower bidding, non-compliant businesses and to pay higher workers' compensation insurance premiums, payroll taxes, etc., to make up for costs not paid by non-compliant businesses. The loss of tax revenues from just the practice of paying employees in unreported cash significantly impacts the state's general fund. At times, these additional burdens placed on legitimate businesses are so great that they are unable to sustain sufficient profits and have no choice but to cease doing business.

A Vulnerable Workforce

It seriously burdens the state's workers through the loss of benefit protections afforded by labor laws, workers' compensation insurance, and unemployment and disability insurance. These workers also often fall victim to unsafe working conditions, less than minimum wage pay and unfair reporting practices.

The Public at Large

It burdens the public at large by causing unsuspecting consumers to contract with unlicensed businesses, as the State's licensing provisions are designed to ensure minimum levels of contractor skills and knowledge. The ultimate goal of these licensing provisions is to protect the consumer.

Thus, the fundamental impact of businesses operating within the underground economy is the erosion of working conditions and economic stability in this state.

In mid-2005, the Governor established and the Legislature agreed to fund, the EEEEC. The EEEEC is a targeted joint effort by State and Federal agencies with the specific mission of attacking California's underground economy. It is managed by the Director of Enforcement who acts as the voice of the EEEEC. The Director oversees and coordinates the combined efforts of the many agencies involved with EEEEC activities. The member agencies provide fully-trained investigative and enforcement personnel with specific expertise in each of the employment, worker safety, licensing, and tax law areas regularly violated by companies operating in the underground economy. Member agencies within EEEEC work together to plan and effectuate both regularly scheduled field enforcement operations (targeted industry "sweeps") and significant educational outreach programs for covered employers and employees. The regularly participating agencies are:

- California Labor & Workforce Development Agency (LWDA)
- Department of Industrial Relations, Division of Labor Standards Enforcement (DLSE - The Labor Commissioner)
- Department of Industrial Relations, Division of Occupational Safety and Health (DOSH - Cal/OSHA)
- Employment Development Department Tax Branch (EDD)
- Employment Development Department Workforce Services Branch (EDD)
- United States Department of Labor (DOL)
- Department of Consumer Affairs, Contractors State License Board (CSLB)
- Department of Consumer Affairs, Bureau of Automotive Repair (BAR)
- Business, Transportation & Housing Agency, Department of Alcoholic Beverage Control (ABC)
- California State Board of Equalization (BOE)

In addition, various other state and local enforcement and tax agencies, such as local District Attorney Offices, participate in special targeted operations as appropriate. For a description of the functions and structure of the regularly participating EEEEC team member agencies see **Appendix A** to this report.

One new approach that has proven effective in gaining cooperation and support from both employers and employees involves the ability of EEEEC personnel to communicate effectively with workers and employers. Because California's employer and employee communities reflect the cultural and language diversity of the State, the multi-lingual capabilities of EEEEC staff enhance the effectiveness of these enforcement operations and educational efforts. The availability of translators skilled in over fifty different languages has made a major impact on the effectiveness of EEEEC activities. More than half of the EEEEC field investigators are bilingual, including staff fluent in Spanish, Vietnamese, Tagalog, Punjabi, Korean, Cantonese and Mandarin languages. Additionally, when EEEEC investigators encounter a business whose employees speak a language in which investigators on a particular "sweep" are not fluent, staff from EDD Workforce

Services offices assist on that sweep. The ability to speak to the workers in their native language has contributed greatly to the success, both during and after the field compliance inspections. The EEEEC investigators report that workers are more cooperative when they understand that the EEEEC partners are there to enforce laws that protect them. In fact, workers seldom flee the locations as had been common in prior field enforcement operations.

Given the statewide jurisdiction of EEEEC, extensive efforts are also undertaken to make certain the greatest possible publicity is afforded to all of its activities. These efforts include direct television, radio and print news participation in actual enforcement actions as well as regularly scheduled press conferences in areas where sweeps have been conducted. As the Little Hoover Commission stated in Recommendation #12 of its 1985 Report

“Expanded use of print and electronic media will help educate the public to the consequences of participating in the underground economy while also signaling that the State is aggressively investigating and penalizing those who choose to violate State tax and labor laws.” (page 49)

We believe that our approach in the area of accompanied press coverage of our sweep activities, in conjunction with our extensive non-sweep outreach activities (both of which are fully discussed in the “Education and Outreach” section below), have been very successful in “signaling” all employers of the State’s intent to stop these illegal activities.

The Enforcement Team Approach

The EEEEC joint agency team approach works as follows:

- Three or more 5-7 member teams of specially trained and experienced enforcement personnel from each of the member agencies conduct targeted sweeps of a specific low wage industry over a two day period. These sweeps are usually done simultaneously in localized Northern and Southern California geographic areas.
- The employers are not randomly targeted, but are specifically selected for inspection based upon EEEEC developed selection techniques. These techniques include site surveillance as well as extensive review of state tax, licensing, and registration records. This targeting is done to both ensure that the worst offenders are inspected and to prevent any unnecessary interruption of the business operations of law-abiding employers in the sweep areas.
- EEEEC developed targeting techniques vary for each of the seven industries within EEEEC's current jurisdiction. Constant improvements in these techniques have allowed EEEEC to increase the number of weeks sweeps are conducted to 40 per year. This leaves one week each month (12 weeks/year) that is utilized for completing investigative reports, testifying at resulting hearings, conducting potential target surveillance, and team member training.

Enforcement Team inspections include the following activities:

- Pre-sweep operational meetings the morning of the first day of the sweeps.
- Immediately upon arrival at the site of an inspection, an introductory meeting is held with the employer or site supervisor to explain the process and to gain the employer's cooperation with the inspection.
- Where the employer raises an objection to being inspected, the Labor Commission Investigator informs the employer of the provisions of the California Labor Code section 90, which specifies that Deputy Labor Commissioners "shall have free access to all places of labor" and that any person who refuses admission "is guilty of a misdemeanor." In the very rare instances where the employer continues to deny access, EEEEC attorneys secure warrants for entry.
- An initial observation of the site is conducted for worker safety violations and to determine the number and ages of the employees.
- The team interviews the employees. Given the nature of the workforce employed in these underground industries, a large number of these interviews require the use of the multilingual skills of the team members.

The Enforcement Team Approach

- Written worker rights information is given to the employees and they are assured that their right to work in a safe place and to be paid in accordance with California law is not, in any manner, based upon their immigration status.
- Records are inspected, photocopied, and/or photographed. These records include timecards, workers' compensation insurance documentation, required state registrations and licenses in farm labor, garment, car wash, construction, and auto body repair, required safety equipment inspection certificates, employer safety and emergency response plans, employee notification posters, etc.
- Citations for violations are issued and explained, in detail, to the employer.
- Where there is no workers' compensation insurance, a "Stop Order" is issued, which prohibits use of employee labor at the job site until the appropriate insurance is obtained. In these instances, all employees are informed of their right to continue to be paid for up to 10 days while the employer acquires the insurance.
- Where it is determined that the place of employment has a machine, device, apparatus, or equipment, which constitutes an imminent hazard to employees, an "Order Prohibiting Use" (OPU) is issued. These orders may prohibit the use of specific equipment or of the entire location, depending on the nature of the hazard encountered. OPUs can also include outdoor work locations that do not meet the California requirements for prevention of heat related injuries such as not making shade available on hot days.
- Records are subpoenaed and audits of payrolls are initiated.
- "Notices to Discontinue" are issued for minor violations, such as inadequate posting of required employee notices.
- Although they are not directly named as part of the EEEEC, the Bureau of Automotive Repair (BAR), and Department of Alcoholic Beverage Control (ABC) officers take appropriate enforcement actions against unlicensed operators.
- Wherever possible, employers are requested to make immediate "on-the-spot" payments directly to the employees who are present, for unpaid wages and employee supplied tools. Employers nearly always comply with these requests.

The Enforcement Team Approach

At the beginning of this report, various scenarios were provided of situations where some or several serious violations were found. Below are examples of how some of these illegal underground economy business operations were addressed through EEEEC cross-jurisdictional enforcement team actions.

- Where it was determined that the employer did not have workers' compensation insurance (Labor Code (LC) §3700), a "Stop Order" was issued. The employees were called together by the inspectors and informed that while they would not be able to continue to work until the legally required insurance was obtained by their employer, the employer was legally required to continue to pay them their full wages until it was secured and they returned to work or for 10 days (LC §3710.1). The employers were then cited in the amount of \$1,000 for each employee up to the maximum of \$100,000.
- Where the employees had not been paid all the straight-time and over-time wages they were due, all the available time records were copied, all the employees were interviewed and their statements were taken setting forth the hours they had worked and what they had been paid. A notice to produce all time and payment records for the prior three years was served on the employer (LC §92), and formal audits were commenced to determine the amount of back wages, taxes, and penalties owed to the workers and the state.
- Where it could be immediately determined from the time and payroll records present at the worksite that individual employees had not been paid minimum wage and/or required overtime for specific days they had worked, minimum wage and/or overtime citations were issued for employees for those specific days (LC §1197 & LC §558). Follow-up audits were also initiated for all other employees and workdays over the past three years. Penalties were also assessed in the amount of \$250 per employee per pay period for failure to provide the employees with required pay statements (LC §226.3).
- Where it was determined there had been under-reporting of employees to EDD, records were copied and tax audits were opened. Where the under-reporting was found to be intentional, and/or appeared to be intended to cause lower workers' compensation insurance premiums to be charged, criminal referrals were made for possible tax and insurance fraud. Assessments were made against the employers with added fraud enhancements where such were found to be appropriate (Unemployment Insurance Code (UIC) §1128(a)).
- Where required safety devices had been removed or disabled on power equipment and/or unsafe equipment was being used, the tools and equipment were "tagged out" and an OPU was issued to prevent their use, and "Serious" DOSH violation citations were issued (LC §6323). Serious citations (such as unguarded power equipment) would be assessed penalties amounting from

The Enforcement Team Approach

\$4,000 to \$25,000, while non-serious “General” citations (such as unsanitary restroom facilities) would range from \$500 to \$2,000.

- At outside work locations where it was hot and there was inadequate water, shade, emergency procedures, or worker and/or supervisor heat illness prevention training, OPU for the entire work location were issued and the workers were removed from the unsafe site. These OPUs remained in effect until the employer established it had come into full compliance with the requirements of California’s Heat Illness Prevention regulations. While the employer was then allowed to resume operations, all assessments and citations that had been issued continued to be processed with the resulting penalties being collected.
- In all instances where “Stop Orders” were issued, unannounced reinspections were made within two days to ensure the orders were being obeyed. Where employers were found to have employees working in violation of the Stop Orders, all work by the employees was again stopped and criminal referrals were immediately made (LC §3710.2).
- In all appropriate instances, direct contact was made with the local press to publicize the nature and importance of the EEEEC inspections. Press releases were also distributed.
- In many cases, follow-up informational meetings were announced and held for all employers in the local area within a week of the sweep.
- After the sweep was completed, EDD staff reviewed the information gathered to determine whether the employers inspected were properly registered and reporting. Employers who were found to be out of compliance were referred to the tax audit program where their records were thoroughly reviewed and tax assessments were issued as warranted.
- At the conclusion of EEEEC sweeps in which CSLB participated, CSLB determined whether civil or criminal follow up investigations would be conducted based upon the findings of the inspections during the EEEEC sweep. Additional follow up was done to cross reference these employers with local district attorneys to determine past violations. Where appropriate, arrests were made and criminal prosecutions were initiated.

A Short History to Date of the EEEEC

The program began in 2005 with the establishment of the EEEEC as part of the Governor's Budget for State Fiscal Year (SFY) 2005-2006. The initial EEEEC program development was undertaken in early 2005 by a team of representatives from all of the California partner agencies, as well as the U.S. Department of Labor. Early efforts focused on developing implementation plans and training modules as well as hiring the necessary staff (**See Appendix C for a list of EEEEC positions**). The specialized training focused on the new processes of multi-agency enforcement actions, along with education and outreach activities that allow the EEEEC to comprehensively address the underground economy in the specific targeted industries. Training was regularly held with all EEEEC staff and administrators from throughout California.

In July 2005, the first EEEEC enforcement actions took place with coordinated sweeps in the construction, agriculture, and garment manufacturing industries. After each compliance inspection or sweep, the EEEEC staff held a briefing to discuss the operation. Several days after the conclusion of each EEEEC compliance inspection, a post-inspection public meeting was also held so that affected employers could attend, ask questions and receive guidance on compliance requirements.

Based on our early field experience and the comments we received from all interested parties, seven industries were selected for regular EEEEC sweep activity. These industries included six traditionally low wage industries and the construction industry which, while not "low wage," had a history of underground work by unlicensed and uninsured employers. The initial six low wage targeted industries were 1) Garment, 2) Agriculture, 3) Restaurant, 4) Car Wash, 5) Janitorial, and 6) Horse Race Tracks. After approximately one and one-half years of field operations, it was determined that the janitorial and horse race track industries were not conducive to sweep enforcement. The problem inherent in janitorial was the lack of access to generally small unsupervised crews working in isolated locations. It was determined that with the creation of the new janitorial advisory board and a new dedicated janitorial enforcement operation within the Labor Commissioner's office, it would be more productive to have all enforcement in that industry handled by DLSE's Bureau of Field Enforcement (BOFE). The horse race track industry also proved to be generally inappropriate for EEEEC type operations due to the transitory nature of the workers and their ability to hide from our inspectors once the word got out that we were present at local race tracks. This resulted in an unreasonably low number of citations with the exception of the first enforcement sweep. It was decided that the only effective way to conduct inspections in that industry would be through individualized DLSE targeted surprise inspections based upon tips from these affected workers or their representatives.

In 2007, two more appropriate industries were, therefore, added. These industries were 1) Wooden Pallet Repair and Manufacture, and 2) Auto Body Repair Shops.

A Short History to Date of the EEEC

These two industries have proven to be highly productive for EEEC operations. The vast majority of pallet repair locations have turned out to be wholly operating in the underground economy utilizing unreported employees who are paid in cash, and who are often subjected to very dangerous working conditions. Auto Body Repair shops have presented a whole new field of underground activities including extensive bartering of unreported exchanges for services, unreported employees, and unlicensed employers. The addition of this industry has also allowed EEEC to include members from the Bureau of Automotive Repair in its teams. These inspectors have added an entirely new set of specialized skills and experience to our other team members. The specific industry focus of EEEC has allowed staff to become more specialized and in tune with the issues of each targeted industry. **(See Appendix B for a description of target industries.)**

Over the first four years of its operation, EEEC has improved its surveillance techniques, front-end lead development, and screening processes, all of which are used to identify those employers most likely to be out-of-compliance with the EEEC participating agencies' laws. This improved method of lead development increases EEEC's accuracy in targeting non-compliant businesses, thereby increasing inspection efficiency while reducing the level of disruption to law-abiding businesses. Detailed pre-screening and lead development allows field staff to be much more familiar with each selected employer before the on-site inspections. This approach also results in the development and implementation of more effective interviewing techniques. It reduces the disruption to employer work operations, since the employer only has to deal with one worksite inspection by the State, rather than separate inspections from each of the State entities. This benefits both the employer and the employees.

We have also made necessary changes that allow all of our enforcement personnel one week each month to prepare their cases for appeal hearings, and to add "mini-sweeps" by single teams in geographic locations outside the areas of our major multi-team sweeps, thereby allowing us to provide simultaneous sweeps through-out the state. EEEC presently schedules sweeps during 40 weeks each year. As team members have moved out of EEEC, we have made efforts to replace them with experienced investigators taking into consideration their home base location. This has resulted in not only having investigators with unique understanding of the local employers and industries, but has also allowed us to reduce the travel costs and inconvenience required for teams to work throughout the state.

In the training area, we have instituted a practice of training all investigators on a cross-jurisdictional basis. This allows investigators from one agency to be aware of, and notice, possible workplace violations that are within the enforcement jurisdiction of the team members from other participating agencies. Such cross-training allows for more efficient enforcement sweeps.

A Short History to Date of the EEEEC

All these changes have been made possible by our centralized matrix approach to operational management. Of course, this approach has only been able to work because of the personal involvement and support of the highest levels of management of the various enforcement agencies that make up EEEEC.

One of EEEEC's goals is to provide ongoing education to both employers and employees. Many businesses that violate the laws do so not out of conscious design, but out of a general lack of understanding of their responsibilities as employers. As part of EEEEC's continuous effort to ensure that employers are educated on how to comply with all state tax, registration, health, safety and labor laws, as well as federal regulations, EEEEC conducts a variety of workshops and presentations that are designed specifically by industry.

Since 2005 EEEEC, has conducted over 70 post inspection outreach events and participated in over 120 additional employer/employee workshops statewide. As of June 30, 2009, these programs have been directly presented to 4,778 interested individuals.

Employers

After most sweeps, a post inspection workshop for those employers previously inspected is conducted. These workshops provide the employers information on the requirements of each agency and an opportunity to discuss the EEEEC process. EEEEC representatives cover a range of topics including labor law compliance, health and safety violations, part-time workers, vacation pay, family member employees, cash pay, and employer appeal rights. In addition, information that will further assist employers is provided on upcoming departmental seminars, such as the EDD and DLSE joint Labor Law and Payroll Tax Seminars and Cal/OSHA Consultation Service information workshops. Attendees are also provided with written literature pertaining to the specific seminar in various languages as well as the departmental contact information. EEEEC also works closely with many agricultural, garment, construction, and carwash employer groups who sponsor their own educational workshops in which knowledgeable EEEEC representatives participate. Some examples of these employer groups include the California Grape and Fruit Tree League, the Nisei Farmers League, the Korean Garment Association, the National Carwash Association, the Arizona/California Agricultural Employers Association and the Sonoma County Wine Association.

Workers

EEEC's efforts in educating the workers of California range from conducting educational employee workshops, to participating in frequent TV and monthly Spanish radio talk shows, and attending various outreach events sponsored by public interest groups. EEEEC outreach efforts target those workers who are most vulnerable, such as newly arrived immigrants and their families. Topics covered include minimum labor standards, the payment of the State's minimum wage, payment of overtime, recordkeeping requirements, rest and meal period requirements, wage deduction requirements, and basic safe workplace protections.

In an effort to measure the success of these educational outreach events, beginning in January of 2008, a newly designed presentation improvement

questionnaire was adopted and provided to all attendees at all post inspection and educational employer/employee outreach events. In addition to responding to questions regarding the presentations, the evaluation form also provides a section where the attendees are given the opportunity to include comments and suggestions on ways to improve the outreach events as well as provide their contact information in order to have a personal follow-up session with EEEEC personnel.

The evaluation form consists of specific questions such as:

- How do you rate the presentation content?
- How do you rate the presenters' knowledge of his/her subject?
- How do you rate the handouts and reference material?
- How do you rate the overall workshop?
- How do you rate the convenience of the location?

All evaluations to date have been summarized and the results have been extremely favorable. As a result of the feedback, the EEEEC has implemented several suggestions to further enhance the program such as adding additional resource material in multiple languages, as well as having specialized bi-lingual staff present all events. In fact, a number of outreach presentations have been conducted exclusively in the language of targeted industry participants such as Spanish language agricultural workshops and Korean garment workshops. These presentations have proven to be highly successful often attracting 200 to 400 participants.

Recent participant comments have included:

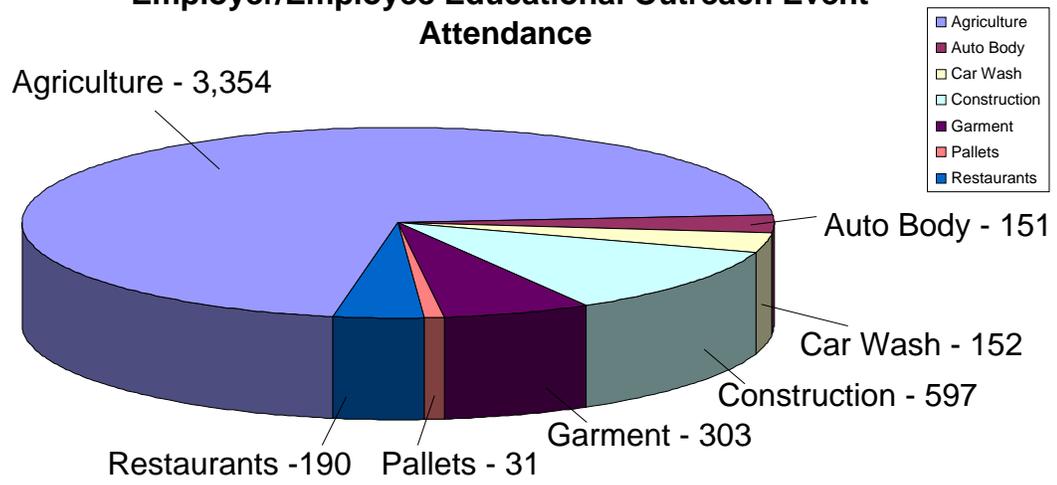
"This presentation was so helpful and informative, it reminded me of a few things that I need to improve or update...."

"Was worth my time to understand the laws on opening my construction corporation."

"Something like this should be mandatory for every contractor or business owner."

The graph on the next page shows the participation levels of the various EEEEC focus industries in the education and outreach events presented.

Economic and Employment Enforcement Coalition Employer/Employee Educational Outreach Event Attendance



The Re-inspection Program

Beginning in 2008, it was determined that a sufficient number of inspections had been conducted and processed in the Restaurant, Car Wash, and Garment industries to allow for the implementation of a meaningful re-inspection program designed to assess the effectiveness of the EEECs' efforts. These three industries were selected because they had been targeted industries from the beginning of the program allowing sufficient time for most of the citations and assessments issued to work their way through the various appeals procedures and become final. These industries also operate in fixed locations that can be re-inspected. In subsequent years the more recently added pallet and auto body repair industries will be included in the re-inspection program.

Our initial statistics, more fully discussed below, have been positive showing that 82 percent of the businesses we initially found to be operating illegally in the underground economy, have either come into compliance (41 percent), gone out of business (31 percent), or have been sold to new owners that are operating legally (10 percent). The protocols utilized in these initial re-inspection efforts have been developed over the past year and one-half so that they reflect, as far as possible, an accurate picture of how our sweep efforts are impacting the underground economy in the selected industries. As was initially noted in the August 1985 Little Hoover Commission Review of programs to control the underground economy, it is difficult to measure how any enforcement efforts result in an increase in the voluntary compliance model that is the basis of most of our State's taxing and regulatory laws. However, we can, through a random re-inspection process, determine whether employers who have been cited in our sweeps continue to engage in activities associated with underground economy operations. This we have attempted to do through a random selection and re-inspection of 10 percent of the employers inspected six months or more prior to our review.

These randomly selected employers are first screened by the EDD to determine their reporting status. This serves as an initial indication of whether they are still in business, have workers' compensation insurance, and/or have appealed or paid any assessments by EDD from the initial inspection. The same list of employers is also provided to DLSE and DOSH to determine the status of any citations and assessments issued by those EEECs partners.

Once the screening information is received from the partner departments and divisions, EEECs staff determines how additional re-inspection efforts will take place. These efforts include, but are not limited to, initial drive-by observation to determine if the employer is out of business, surveillance, drop-by visits to confirm any new ownership, actual re-inspection by one or more EEECs partners, and/or the addition of the site to a normally scheduled sweep.

A final spreadsheet is then prepared by EEECs staff showing the results of all the selected employers along with a report summary for each re-inspection audit. The major results looked for are the following:

The Re-inspection Program

- Has the business been closed?
- Is there new ownership, and if there is, is the new owner engaging in activities that are normally associated with underground economy operations, such as no workers' compensation insurance, cash pay to employees without the proper withholding and payment of taxes, failure to pay minimum wages or overtime to employees, or non-minor health and safety violations?
- If the business is still in operation with the same owner, has the owner cleared all the violations previously found, and if so, are there any new violations other than minor ones, that would not normally be associated with underground economy operations?

Re-inspection Program by Industry

	Car Wash		Restaurant		Garment		Totals	
	#	%	#	%	#	%	#	%
Out of business	3	25%	4	20%	8	47%	15	31%
In Compliance	2	17%	12	60%	6	35%	20	41%
New Ownership – In Compliance	2	17%	2	10%	1	6%	5	10%
In business and Still Out of Compliance	4	33%	2	10%	1	6%	7	14%
New Ownership – Out of Compliance	1	8%	0	0	1	6%	2	4%
Total	12	100%	20	100%	17	100%	49	100%

From the data displayed in the above chart, it appears that the EEEEC program is succeeding in its goal of leveling the playing field and restoring the competitive advantage to law abiding businesses and their employees. However, more needs to be done. With 82 percent of the businesses targeted during EEEEC sweeps being either in compliance (41 percent), under new ownership that is in compliance (10 percent) or out of business entirely (31 percent) upon re-inspection, the local law abiding business no longer face major unfair competition. The businesses that were found continuing to operate in the underground economy face further enforcement actions and possible criminal prosecution.

While these statistics are compelling in themselves, it should be noted that a full one-third of the 18 percent found to continue to be out of compliance had corrected all their prior violations with the exception of having secured the required car wash registration with the DLSE. In addition, all but one business had corrected all the serious safety

The Re-inspection Program

violations found in the original inspections. For detailed information on the Re-inspection results by industry and employer, see **Appendices D, E and F**.

We intend to not only continue to conduct our formal program of re-inspections in the Restaurant, Car Wash and Garment industries, but to add the Wooden Pallet Repair & Manufacturing and Auto Body Repair industries when we have had sufficient initial inspections in those industries as well.

Why EEEEC Should be Made a Permanent Program

Since established in 2005, EEEEC's goals have been to:

- Collaborate to undertake vigorous and targeted enforcement against unscrupulous businesses; and,
- Help to level the playing field and restore competitive advantage to law abiding businesses and their employees.

EEEC activities throughout the past four years have served to both enforce California's employment and tax laws and educate employers, employees and the public. The program's enforcement and deterrence effectiveness is demonstrated throughout this report. The education and outreach events have both been well attended with participants rating these events as beneficially informative in nearly 100 percent of the evaluations received. EEEEC has proven to be a program well designed and operated to meet its goals.

EEEC Works

On the enforcement side, as of June 30, 2009, the EEEEC targeted enforcement sweeps identified 18,728 violations of provisions of California's Labor, Health and Safety, and Business and Profession Codes (**Appendix G**). These violations represent employers who were using unlawful tactics to achieve an unfair competitive advantage over law abiding employers. The EEEEC has served to level the playing field and get the message out to employers participating in the underground economy that California will not sit by and allow this activity which puts compliant business owners at risk and makes them unable to compete for business. As our re-inspection program shows, we have been highly successful in targeting employers operating in the underground economy. Once identified, we have brought most into compliance, put a good percentage out of business, and brought the owners of the worst before the criminal courts. EEEEC has initiated 823 cases that have been referred to District Attorneys for potential criminal prosecution. Of these, 431 illegal operators have been convicted. As indicated in the previous section of this report, a significant number of those few inspected employers who continued to be out of compliance upon re-inspection had, in fact, come into full compliance with respect to worker safety and wage and hour requirements.

EEEC's activities have also served to help prevent California's lowest wage workers, who are at the greatest risk, from being taken advantage of by unscrupulous businesses who are willing to break the law to gain an unfair advantage and earn greater profits. This we have done through the uniform enforcement of laws ranging from child labor, minimum wage and employment tax issues, to health and safety regulations. CalOSHA citations issued by EEEEC include violations that clearly put workers lives in danger (see **Appendix I** for a more detailed list of EEEEC citations).

Why EEEEC Should be Made a Permanent Program

Minimized Burden and Disruption of Businesses Operations

The collaborate nature of bringing the various enforcement agencies together to implement targeted education and enforcement sweeps throughout California has proven to be a unique approach that is welcomed by law abiding employers. One coordinated and highly focused inspection by a combined team of several enforcement agencies significantly lessens the burden on the compliant business owners. EEEEC sweeps also serve to let the general public know that California is serious about enforcement and that we are doing what is necessary to level the playing field for the all business owners.

Specialized, Highly Trained and Effective Staff and Supervisors

From its inception, special efforts have been made to select only the most motivated and experienced investigators and other personnel for assignment to EEEEC. The industry targeted sweeps also allowed these EEEEC staff to gain unique expertise in each of the targeted industries. EEEEC representatives have also been able to develop close professional relationships with employer and worker organizations and representatives in these industries. This allows EEEEC agents to understand the specific issues encountered within each industry. Through the relationships developed, targeted education opportunities have arisen by which EEEEC staff have been able to fill the need for specialized education and outreach events that assist business owners in understanding the requirements placed on them within California.

Permanence will help provide the stability necessary to enhance program planning and continued staff commitment to the operation. Many investigators and other staff members have come to closely identify with EEEEC and wish to remain as long-term members of the operation. However, they are aware of the current temporary nature of the operation's funding and feel they presently have little choice but to consider opportunities outside EEEEC for employment security and advancement purposes.

High Public Exposure at Very Limited Cost

EEEC operations are statewide, planned in advance, and generate significant press coverage. Whenever possible we have involved legislative staff in our sweep operations, thereby making the Legislative Branch aware of the problems presented by the underground economy and the remedial techniques we are utilizing to combat it. The ability to publicize EEEEC activities to the general public, along with targeted industry events, broadcasts, and other outreach activities, has leveraged the impact the program has made.

EEEC's proven enforcement approach over the four years of its on-the-ground operation clearly establishes the need to make it a permanently funded program for attacking the underground economy in California.

Much remains to be done in our efforts to effectively combat the underground economy so that California's law abiding business may be able to effectively compete in today's marketplace. The initial four years of EEEEC's operation have shown how a dedicated enforcement unit, staffed by highly skilled and trained personnel from separate, but functionally related wage, hour, safety, and tax authorities - working together - can make a significant contribution to such efforts. As mentioned previously in this report, any such efforts require not only the ability to effectively coordinate the activities of separate and disparate agencies, but also the good faith support of each agency's management at the highest levels of authority. EEEEC has shown how this can be done when the common goal is shared by all.

EEEC has also shown how any joint agency enforcement program must be able to react quickly to the changing nature of underground business activities. As businesses generally have recently been impacted by downward changes in our national and local economies, the temptation for marginal employers to venture into underground economy operations has grown significantly. Evidence indicates that some new underground economy industries are ones that have not yet been included in EEEEC's targeted operations. As EEEEC has successfully done in the past, consideration is being given to expanding EEEEC's enforcement activities into several of these newly identified industries. These new areas of targeted enforcement include expanding the construction industry to specifically include cabinet fabrication and installation contractors, and the inclusion of general automotive engine repair and rebuild services, along with tire repair shops, into EEEEC's Auto Body Repair industry operations.

EEEC is also considering how best to expand its outreach and education efforts to include these new targeted business operations. Of course, any such expansion of EEEEC underground economy enforcement activities must take into consideration both the resources available for such operations and the prospects for continued future funding of EEEEC as a regular Labor and Workforce Development Agency program.

As our experience in attacking the underground economy grows, EEEEC will continue to review how our presently available laws and regulations that make effective enforcement possible, might be strengthened and/or modified to meet the objectives of our efforts. We anticipate our review will be helpful to each of the participating enforcement and taxing agencies in assisting them in making meaningful legislative and regulatory proposals with respect to each of their areas of responsibility.

Appendix A – Description of Member Agencies

The EEEEC is made up of the agencies that are tasked with enforcing California's labor, health and safety, employment tax, and consumer protection laws. These agencies, each an expert in their own field, have come together to work collaboratively to enhance the education and enforcement activities they pursue.

California Labor & Workforce Development Agency (LWDA)

Within the California Labor & Workforce Development Agency (LWDA), the Director of the EEEEC oversees the implementation, policy, and operations of the EEEEC. The Director reports directly to the Secretary and Undersecretary of LWDA. The Director takes the lead in coordinating both the enforcement and educational components of the EEEEC programs to make certain that employers and workers understand their rights and responsibilities under state and federal law. For additional information on the LWDA, visit: www.labor.ca.gov.

Department of Industrial Relations (DIR)

The DIR oversees seven programs and six boards and commissions, including two which participate in the EEEEC:

Division of Labor Standards Enforcement (DLSE- the Labor Commissioner)

DLSE is responsible for vigorously enforcing minimum labor standards in order to ensure employees are not working under substandard unlawful conditions. DLSE protects workers and legitimate employers from businesses who attempt to gain competitive advantage by ignoring the law. DLSE enforces:

- California's minimum wage law
- Timely payment of overtime and wages
- Employer record-keeping requirements
- Meal and rest period requirements
- Mandatory workers' compensation insurance coverage
- Child labor laws
- Proper wage deduction statements
- Prevention of workplace retaliation practices

In addition, DLSE licenses or regulates various California employers and underage workers. This includes licensing for:

- Agricultural farm labor contractors
- Car wash operators
- Garment manufacturers
- Other occupations such as talent agents, film studio teachers, and children employed within the entertainment industry

Appendix A – Description of Member Agencies

DLSE investigators conduct onsite workplace inspections to ensure compliance with California's laws. Investigators review payroll records to determine if wages have been paid properly and issue civil citations that carry a civil monetary penalty to employers found in violation of labor laws. For more information on the labor standards enforcement program, go to: www.dir.ca.gov/dlse.

Division of Occupational Safety & Health (DOSH or CalOSHA)

DOSH aims to ensure that California's workers have safe workplaces, and seeks to achieve this goal through effective enforcement of California's workplace safety and health standards, with an emphasis on the rapid abatement of any hazards identified.

DOSH employs industrial hygienists, safety engineers, and investigators to conduct onsite workplace inspections. In addition, the program permits and certifies elevators, amusement rides, pressure vessels, and underground and surface mines.

DOSH investigators within the EEEEC program participate in onsite workplace inspections, looking for violations of health and safety codes. Additionally, DOSH staff are essential participants in EEEEC outreach and education efforts, providing employers and workers with information and research materials regarding workplace safety. For more information on this program, go to: www.dir.ca.gov/dosh.

Employment Development Department (EDD)

EDD offers a wide variety of services to millions of California workers and businesses. As one of California's largest tax collection agencies, EDD also is responsible for the audit and collection of payroll taxes and maintains employment records for more than 17 million California workers. Each year, the EDD Tax Branch collects more than \$40 billion in payroll taxes from more than 1 million California employers.

EDD staff within EEEEC participate in onsite inspections, focusing on identifying possible non- or under-reporting of wages and/or workers, which may result in a subsequent tax audit of the employer. EDD staff are also key participants in EEEEC outreach and education seminars.

With fluency in a variety of languages, EDD Workforce Services Branch staff are also critical partners in EEEEC, assisting with interviewing non-English speaking workers as well as providing rapid-response services to those workers who may be displaced when an employer must shut down (for example, due to serious Labor Code violations). These services may include referrals to local employment

Appendix A – Description of Member Agencies

and training resources including One-Stop Career Centers. For additional information on EDD's efforts to combat the underground economy, visit: www.edd.ca.gov/Payroll_Taxes/Underground_Economy_Operations.htm. [www.edd.ca.gov/Payroll_Taxes/Underground_Economy_Operations.htm]

California Contractors State License Board (CSLB)

CSLB is mandated by the California Legislature to license and regulate contractors in 42 licensee classifications within California's construction industry. Contractors are required by law to be licensed and comply with all building, employment, and tax laws. Currently, there are approximately 295,000 licensed contractors regulated by the State.

The CSLB Enforcement Program participates in EEEEC onsite inspections of construction sites, focusing on compliance with licensing laws, with an emphasis on identifying unlicensed (illegal) contractors. Each year, the CSLB Enforcement Program receives more than 20,000 consumer complaints against licensed and unlicensed contractors. The Enforcement Program investigates these complaints (from consumers or legitimate contractors), and participates in EEEEC outreach seminars focused on educating consumers and other public agencies. The CSLB has established a Statewide Investigative Fraud Team (SWIFT) that focuses on the underground economy and on unlicensed contractors. These units conduct stings and sweeps to help curtail illegal contracting by citing those who are not licensed. As a separately funded participant in EEEEC, CSLB also reports yearly on its EEEEC activities. For more information on CSLB, go to: www.cslb.ca.gov.

US Department of Labor (USDOL)

The mission of the USDOL, Wage & Hour Division is to promote and achieve compliance with labor standards to protect and enhance the welfare of the nation's workforce. The Division is responsible for the administration and enforcement of a wide range of federal laws which collectively cover virtually all private and government employment. For additional information on the Wage & Hour Division at the USDOL, visit their Web site at: www.dol.gov/esa/whd/.

California Bureau of Automotive Repair (BAR)

In February of 2008, the Bureau of Automotive Repair (BAR) formally joined in the EEEEC Auto Body Shop sweeps that had begun in late 2007. In that year, BAR participated in approximately twelve (12) sweeps. During these sweeps, BAR inspectors found numerous shops that did not have the proper auto body equipment as required by the California Code of Regulations §3351.5. In addition, they found other violations such as not having a valid Automotive Repair Dealer (ARD) registration to perform compensated auto repairs, not providing proper estimates to customers, and deficiencies in their final invoices. While not officially

Appendix A – Description of Member Agencies

a funded member of the EEEEC, BAR inspectors have participated in all EEEEC auto body repair sweeps since February 2008. BAR has developed a great working relationship with EEEEC and is fully committed to continued involvement in these sweeps.

BAR is a part of the California Department of Consumer Affairs. BAR is mandated by the California Legislature to license and regulate all automotive repair business within California. Currently, there are approximately 5,000 licensed auto body repair businesses regulated by the State. Because the BAR is not a regular member of the EEEEC, its EEEEC sweep related enforcement statistics are not included as part of this report. They are, however, part of the BAR's regular reporting practices and can be found at www.bar.ca.gov.

California State Board of Equalization (BOE)

In mid-2008, the California State Board of Equalization (BOE) began a major specially funded enforcement operation directed at the underground economy. Representatives of EEEEC and BOE's new Statewide Compliance and Outreach Program (SCOP) held a series of meetings in which it was agreed that BOE unit members would be incorporated into EEEEC sweep teams in retail and service industries for the purpose of training and sharing expertise and information directed at underground business operations. Although they are not directly named as an EEEEC member agency, their continued assistance and partnership in underground economy enforcement sweeps has proven to have a substantial impact on the efficiency with which EEEEC conducts its sweeps in the garment and retail industries.

BOE's SCOP focuses on identifying and registering businesses who are actively selling tangible personal property in California without a seller's permit. In general, the purpose of SCOP is to advise business owners about when they need a seller's permit and how to report and remit their taxes and fees due.

SCOP monitors the ongoing compliance of newly registered businesses, reduces the number of businesses operating without a valid seller's permit, and enhances the awareness of businesses on the consequences of tax evasion.

If SCOP specialists find that a business is reporting its taxes incorrectly, they advise the business to file amended returns or, if the business has overpaid taxes, file a Claim for Refund. In some instances, the business may be referred for an audit. As mentioned above for the BAR, BOE's statistics are not noted in this EEEEC report, but can be found at www.boe.ca.gov.

Appendix A – Description of Member Agencies

Alcoholic Beverage Control (ABC)

The restaurant industry is one of the target industries of the EEEEC. California's ABC, the licensing agency for the sale of alcoholic beverages, has participated on multiple restaurant sweeps. The advantage of ABC's participation in EEEEC is that, for restaurant establishments that serve alcohol, proper maintenance of the required licenses and compliance with the laws enforced by ABC are essential in the legal operation of these establishments. Again, while ABC is not a regularly funded member of EEEEC, its assistance as needed, has been highly effective in enhancing EEEEC enforcement operations. Similar to the BAR and BOE, statistics regarding ABC's sweeps can be found on their website, www.abc.ca.gov.

Current EEEEC Industries

The following are the seven industries in which EEEEC currently conducts its underground economy sweeps:

Agriculture



Agriculture is a large and diverse industry throughout California. All farm labor contractors operating in California are required by law to be licensed annually by DLSE. This licensing requirement involves extensive annual education and testing provisions. Workers are often subject to labor and safety violations from farm labor contractors, farmers, ranchers, and food processors. This industry typically employs seasonal workers who earn low wages and may be exposed to extreme heat in the summer, inadequate housing and sanitation facilities, pesticides, and dangerous farm equipment. Workers encounter issues involving child labor violations, minimum wage, non-payment of wages, meal and rest period violations, workers being required to furnish their own tools, and overtime law violations. Through conducting on-site EEEEC field inspections with its partners, labor and safety violators are identified and are brought into compliance. Unlicensed farm labor contractors are also brought into compliance or have their illegal operations shut down.

Car Wash



The car wash industry typically employs workers who work less than full-time and earn low wages. The workers are exposed to potentially dangerous chemicals,

Appendix B – The Industries

slippery floors, and unsafe “tunnels” where cars are washed and dried. Inspectors often encounter issues involving violations of labor laws pertaining to child labor, payment of minimum wage, non-payment of wages, non-reporting of tips, meal and rest periods, and overtime laws. Since the formation of EEEEC, car wash operators have become subject to new statutory licensing requirements under the jurisdiction of DLSE. These requirements not only regulate their operations, but also provide significant bonding requirements for all employers. Unlicensed operators are now subject to fines of \$100 per day, up to \$10,000. In the past two years, a large number of unlicensed car wash operations have been fined the full \$10,000 for their violation of the registration requirements. Car wash industry associations are continuing to work with EEEEC in helping to educate their member employers and to identify non-compliant businesses throughout the State.

Construction



The construction industry was included in EEEEC’s target group due to the high number of known violations including unlicensed contractors, unsafe working conditions, failure to maintain workers’ compensation insurance and unreported cash wages. Working with the separately funded CSLB’s underground economy enforcement unit, EEEEC has been successful in not only issuing citation assessments against underground contractors, but also securing criminal prosecution of many contractors who were doing business illegally.

With the California infrastructure bond projects getting underway, it is extremely important that we continue our mission to ensure that the public is protected from unscrupulous contractors willing to cut corners to gain an unfair competitive advantage over legitimate licensed contractors.

Garment Manufacturing



The garment industry has a well-documented history of violating the most basic labor laws, including those centering on child labor, minimum wage, and overtime pay. Many garment contractors are willing to cut corners to improve their profit margins by ignoring or intentionally disregarding the health and safety, licensing, and tax laws. Garment workers have often reported horrible working conditions, sub-minimum wages, improper payment of wages, non-payment of wages, forced unpaid overtime, meal and rest period violations, and illegal firings. Garment operators can easily control their workers as many of the workers are unaware of their rights while performing services in California. All garment industry employers are subject to extensive registration and regulation requirements. It is, therefore, important that unlicensed employers do not gain an economic advantage over those many garment businesses that do comply with these legal requirements. To enhance our enforcement within this industry, EEEEC has developed a close working relationship with the Los Angeles County Health Department to identify non-compliant garment manufacturers. Over the past four years, EEEEC has been very successful in forging good educational working relationships with the garment industry associations. The Labor Commissioner also works directly with representatives of both the manufacturers and the workers' representatives through the Garment Advisory Board that meets regularly in Southern California. Additionally, when EEEEC inspectors determine that garments have been produced by employers operating within the underground economy, those garments are confiscated by EEEEC staff. These seized garments are donated to non-profit charitable organizations.

Restaurant



Businesses in the restaurant industry typically employ workers who work less than full-time and earn low wages. These workers are regularly exposed to sharp implements, slippery floors, ungrounded electrical outlets, and other unsafe working conditions. Investigators encounter issues involving child labor, failure to pay minimum wage and/or overtime wages, non-payment of wages, non-reporting of tips, and meal and rest period violations. Labor, tax, and safety violations are identified and laws are enforced by EEEEC staff conducting on-site inspections. EEEEC works with the direct participation of the California Department of Alcoholic Beverage Control in sweeps within the restaurant industry.

Wooden Pallet Repair & Manufacture



The wooden pallet repair and manufacturing industry was incorporated into EEEEC sweep operations in 2007. It is an industry that requires little capital investment to set up and operate, is conducive to the use of generally unskilled labor, works well on a cash purchase and sale model, and presents a number of safety and health hazards to employees. These operations are often found on vacant lots without any connections to public utilities. We have found pallet repair facilities in almost all industrial and agricultural areas of the state. They range in size from only a few employees to some with over 10 full-time employees who have worked for the same underground employer for years. Almost all the employees work up to 10 hours per day and are paid on either a piece-rate or per-day rate with almost all receiving none of their required overtime pay.

Auto Body Repair



The auto body repair business in California is one that is subject to statutory control by the Bureau of Automotive Repair which is a part of the California Department of Consumer Affairs. This industry was added to the EEEEC in 2007. While all these repair businesses are required to be licensed, many employers choose to operate illegally in the underground economy. These operations range from small crews in unventilated and otherwise dangerous rented facilities, to large “chop-shops” in which stolen vehicles are reconstructed, repainted and prepared for sale in the underground economy. Many employees of these operations are unreported as employees, paid on a cash basis, required to work in unsafe and unhealthful conditions, and generally denied the normal protections provided by California’s labor and safety laws. In addition to the lack of employment tax reporting, sales and use taxes due to the state are often not reported or paid. The lack of required workers’ compensation insurance, taken in conjunction with the hazardous nature of the work, also impacts the state’s uninsured workers’ fund as well as local hospitals which must treat these uninsured workers for work related injuries. Since Early 2008 all EEEEC operations in this industry have included the active participation of Bureau of Automotive Repair inspectors.

Prior EEEEC Industries

The following are two industries which were initially part of EEEEC sweep operations. They have since been replaced as EEEEC targeted industries.

Janitorial

The janitorial industry is one in which the Labor Commissioner has, since 2005, made special enforcement efforts through DLSE’s Bureau of Field Enforcement (BOFE) operations. Janitorial was removed from the EEEEC scope in 2007 after our experience confirmed that unannounced enforcement sweeps directed at this industry are not as efficient as dedicated BOFE target operations conducted with the assistance of legally operating industry members and representatives of joint industry/labor organization associates. The basic problem with EEEEC sweep

coverage is that janitorial services are generally performed at night and behind locked doors by small groups of unsupervised workers. To address this industry, in 2007, the Labor Commissioner established the Bureau of Field Enforcement Janitorial Unit.

Horse Race Tracks

The horse race track industry is an old, established industry in California. The horse owners and trainers are a very close-knit group. This industry typically employs workers who work irregular hours and earn low wages for exercising and feeding race horses. The workers are generally employees of either the owners or the trainers, usually paid a daily fee per horse, and take care of three to four horses per day. They work seasonally during the race season and follow the racing circuit throughout the state and nation. Most of the workers are paid as independent contractors even though they should be reported as employees under California law. The EEEC has encountered issues involving child labor violations, poor record keeping, minimum wage violations, failure to maintain workers' compensation insurance, unregistered employers, and payment of cash wages. This industry was removed from EEEC sweep enforcement activities in 2007 due to the number of unique factors that clearly indicated enforcement would be more efficient by the Labor Commissioner's Bureau of Field Enforcement (BOFE), utilizing individual enforcement actions based on specific leads.

Appendix C – Member Agency Staffing

Classifications	Authorized Positions
Director EEEC (LWDA)	1.0
Industrial Relations Counsel III (DLSE)	1.0
Deputy Labor Commissioner I (DLSE)	11.0
Office Technician (DLSE)	2.0
Accounting Technician (DLSE)	1.0
Payroll Auditor (DLSE)	1.0
Senior Safety Engineer (DOSH)	1.0
Associate Safety Engineer (DOSH)	9.0
Accountant I (DOSH)	1.0
Associate Industrial Hygienist (DOSH)	1.0
Office Technician (DOSH)	1.0
Staff Counsel (EDD)	1.0
Tax Administrator I (EDD)	2.0
Criminal Investigator (EDD)	1.0
Tax Auditor III (EDD)	13.0
Tax Auditor IV (EDD)	2.0
Senior Tax Compliance Representative (Specialist) EDD	1.0
Employment Program Representative (EDD)	3.0
Program Technician II (EDD)	2.0
Enforcement Representative I (CSLB)	11.0
TOTAL POSITIONS	66.0

Note: Some positions were reclassified as needed for recruitment purposes and to reflect actual needs of the EEEC.

Appendix D – EEEEC Car Wash Re-inspection Program Results

Car Wash Re-inspections			
<i>Employer</i>	<i>Re-inspection Result</i>	<i>Prior Violation(s) Status</i>	<i>Underground Economy Violations Found Upon Re-inspection</i>
1	In Business	DLSE-Cleared DOSH-Abated EDD-No Referral	No
2	New Ownership	N/A	No
3	New Ownership	N/A	No
4	In Business	DLSE-Cleared DOSH-Abated EDD-No Referral	No
5	In Business	DLSE-Cleared DOSH-Collection Pending EDD-Audit Completed	Workers' Comp, Registration, and Cash Pay
6	In Business	DLSE-Cleared DOSH-Abated EDD-Reporting	Car Wash Registration
7	In Business	DLSE-Cleared DOSH-Collection Pending EDD-Not Reporting	Car Wash Registration
8	In Business	DLSE- Collection Pending DOSH-Collection Pending EDD-Reporting	Car Wash Registration
9	Out of Business	N/A	N/A
10	Out of Business	N/A	N/A
11	Out of Business	N/A	N/A
12	New Ownership	N/A	Worker's Comp.

Appendix E – EEEEC Restaurant Re-inspection Program Results

Restaurant Re-inspections			
<i>Employer</i>	<i>Re-inspection Result</i>	<i>Prior Violation(s) Status</i>	<i>Underground Economy Violations Found Upon Re-inspection</i>
1	In Business	DLSE-Cleared DOSH-Collection Pending EDD-No Referral	Workers' Comp
2	In Business	DLSE- Collection Pending DOSH-Collection Pending EDD-Audit Complete-Active Collection Case	No
3	In Business	DLSE- Collection Pending DOSH-Collection Pending EDD-Reporting	No
4	In Business	DLSE- Collection Pending DOSH-Abated EDD-Audit Referral	No
5	In Business	DLSE-Cleared DOSH-Abated EDD-Reporting	No
6	Out of Business	N/A	N/A
7	Out of Business	N/A	N/A
8	In Business	DLSE- Cleared DOSH-Abated EDD-Reporting	No
9	Out of Business	N/A	N/A
10	In Business	DLSE- Cleared DOSH-Collection Pending EDD-Reporting	No
11	In Business	DLSE- Cleared DOSH- Collection Pending EDD-Audit Completed	No

Appendix E – EEEEC Restaurant Re-inspection Program Results

Restaurant Re-inspections - Continued			
Employer	Re-inspection Result	Prior Violation(s) Status	Underground Economy Violations Found Upon Re-inspection
12	New Ownership	N/A	No
13	New Ownership	N/A	No
14	In Business	DLSE- Collection Pending DOSH-Abated EDD-Audit Completed	No
15	In Business	DLSE- Cleared DOSH-Abated EDD-Reporting	No
16	In Business	DLSE- Cleared DOSH-Abated EDD-Reporting	No
17	In Business	DLSE – Cleared DOSH – Abated EDD – Reporting	No
18	In Business	DLSE- Collection Pending DOSH-Abated EDD-Liability Outstanding	Cash Pay
19	Out of Business	N/A	N/A
20	In Business	DLSE- Collection Pending DOSH-Abated EDD-Liability Outstanding	No

Appendix F –Garment Re-inspection Program Results

Garment Re-inspections			
<i>Employer</i>	<i>Re-inspection Result</i>	<i>Prior Violation(s) Status</i>	<i>Underground Economy Violations Found Upon Re-inspection</i>
1	In Business	38 DLSE- Collection Pending DOSH-Abated EDD-Audit Completed	No
2	Out of Business	N/A	N/A
3	New Ownership	N/A	Cash Pay, Records
4	Out of Business	N/A	N/A
5	Out of Business	N/A	N/A
6	Out of Business	N/A	N/A
7	In Business	DLSE-Cleared DOSH-Abated EDD-Reporting	No
8	In Business	DLSE-Cleared DOSH-Abated EDD-Reporting	No
9	Out of Business	N/A	N/A
10	In Business	DLSE-Cleared DOSH-Abated EDD-Reporting	No
11	In Business	DLSE-Cleared DOSH-Abated EDD-Reporting	Repeat Serious DOSH Violations

Appendix F –Garment Re-inspection Program Results

Garment Re-inspections - Continued			
Employer	Re-inspection Result	Prior Violation(s) Status	Underground Economy Violations Found Upon Re-inspection
12	In Business	DLSE-Cleared DOSH-Collection Pending EDD-Reporting	No
13	In Business	DLSE-Cleared DOSH-Abated EDD-Reporting	No
14	Out of Business	N/A	N/A
15	Out of Business	N/A	N/A
16	New Ownership	N/A	No
17	Out of Business	N/A	N/A

Economic and Employment Enforcement Coalition
Summary of EEEAC Accomplishments

<i>Result</i>	<i>SFY 2005-2006</i>	<i>SFY 2006-2007</i>	<i>SFY 2007-2008</i>	<i>SFY 2008-2009</i>	<i>Total</i>
Compliance inspections conducted	1,663	1,353	1,189	1,341	5,546
Labor, Health & Safety and Business & Professional Code Citations & Violations	4,697	4,674	4,850	4,507	18,728
Labor, Health & Safety and Business & Professional Code Citation Assessments & Current Penalties	\$8,954,005	\$11,418,767	\$8,939,854	\$9,467,455	\$38,780,081**
Previously Unreported Employees	1,206	4,432	5,585	3,829	15,052
Previously Unreported wages identified	\$17,487,200	\$92,370,364	\$107,268,624	\$80,257,205	\$297,383,393
Tax Audit Referrals	154	239	321	231	945
Employment Tax Audits Completed (closed)	38	262	303	286	889
Tax Liability Assessed	\$3,025,126	\$14,079,917	\$15,535,274	\$13,714,700	\$46,355,017
EDD Fraud Penalty Assessments	11	62	66	64	203
New Employers Registered	83	54	101	113	351
Cases referred to District Attorneys' offices for criminal prosecution	105	53	328	337	823
Cases resulting in criminal conviction	36	22	149	224	431

**Listing of citations by category noted in Appendix I

Appendix H – EEEEC Program Statistics July 1, 2005 through June 30, 2009

Economic and Employment Enforcement Coalition Program Results July 1, 2005 through June 30, 2009

	<i>Agriculture</i>	<i>Auto Body</i>	<i>Car Wash</i>	<i>Construction</i>	<i>Garment</i>	<i>Horse Racing</i>	<i>Janitorial</i>	<i>Pallets</i>	<i>Restaurant</i>	<i>Total</i>
Number of Inspections	1,237	303	453	1,520	825	16	72	126	994	5,546
Number of Citations & Violations	2,105	1,885	2,015	4,243	4,497	14	124	503	3,342	18,728
Citations Assessments & Current Penalties	\$3,702,665	\$2,764,965	\$4,521,410	\$6,890,185	\$10,953,756	\$35,180	\$521,980	\$1,496,465	\$7,893,475	\$38,780,081**
Audits for Wages, Tools, & Uniform	279	65	277	247	235	7	50	8	608	1,776
Tax Audit Referrals	26	89	79	89	302	6	25	30	299	945
Tax Audits Completed	25	63	78	75	264	4	7	27	346	889
Tax Liabilities Assessed	\$2,154,178	\$1,931,155	\$3,026,101	\$6,500,648	\$19,965,362	\$51,878	\$490,925	\$1,225,215	\$11,009,555	\$46,355,017
Fraud Charges	6	7	21	11	74	-	-	8	76	203
Previously Unreported Wages	\$16,609,775	\$12,195,072	\$27,068,127	\$51,114,499	\$110,563,147	\$754,510	\$6,798,297	\$8,455,602	\$63,,364	\$297,383,393
Employer Self-Audits	2	32	23	38	19	2	1	7	50	174
Employer Liability-Self Assessed	\$1,597	\$47,108	\$20,540	\$96,680	\$29,957	\$2,516	\$4,178	\$12,281	\$61,704	\$276,561
Employer Liabilities Collected	\$1,597	\$3,584	\$6,036	\$26,762	\$12,371	\$2,217	\$4,091	\$4,091	\$39,179	\$100,015
Employer Self- Audited Reported Wages	\$127,746	\$825,199	\$469,854	\$1,175,954	\$600,146	\$49,458	\$146,599	\$176,150	\$1,861,061	\$5,432,167
Employer Self-Reported Employees	6	89	54	96	118	7	37	12	231	650

** Listing of citations by category noted in Appendix I

Number of Inspections

Number of site inspections conducted by DLSE. Depending on the circumstances, all partners do not participate on all inspections. For example, if there are no employees on site, DOSH and EDD would not be required to participate, only DLSE would conduct the inspection.

Number of Citations and Violations

Number of citations and violations issued by DLSE, CSLB and DOSH.

Citation Assessments and Current Penalties

Citation assessments issued at the time of inspection by DLSE & CSLB. Current Penalties are those penalties issued by DOSH that have been settled through pre-appeal settlements or reductions.

Audits for Wages, Tools and Uniform

Audit request issued by DLSE at the time of inspection for the employer to conduct a self-audit. If the employer is unable to conduct a self-audit, one will be conducted by DLSE.

Tax Audits Referrals

Referrals prepared by EDD's EEEEC agents to the local Tax audit offices for follow-up investigations where there is unreported wages and workers. Only those inspections where there were 5 or more workers and the business has been operating 4 or more quarters, meet the criteria for a Tax Audit referral.

Tax Audits Completed

The number of tax audits completed by the local EDD Tax office auditor.

Tax Liabilities Assessed

The total liability assessed from a completed tax audit. This would include Unemployment Insurance, Employment Training Tax, Disability Insurance, Personal Income Tax, penalty, and interest.

EDD Fraud Charges

The total number of cases where fraud was charged on an EEEEC tax audit follow-up. Fraud may only be charged when it is determined during a tax audit that the employer has committed intentional disregard or intent to evade as defined by various court cases.

Previously Unreported Employees

Workers who were not previously reported to EDD as an employee on the quarterly reporting form by that employer.

Previously Unreported Wages

Wages employer failed to report to EDD on the quarterly reporting form.

Employer Self-Audits

Investigations completed by EDD EEEC staff when there are unreported wages and workers and the case does not meet the criteria of a Tax Audit Referral. When there are fewer than 5 workers or the business has operated less than 4 calendar quarters, the criteria for initiating a Tax Audit Referral is not met. When there are unreported workers and wages, the Department must do some type of follow-up action to protect the integrity of the UI and general fund. The employer is provided an opportunity to self-report by completing and sending reporting forms and making a full payment including penalties and interest. In many instances, EEEC staff also provides education to the employer on reporting requirements through the Self-Audit process.

Employer Liability-Self Assessed

The total liability amount that is owed by the employer as determined through the Self-Audit process.

Employer Liabilities Collected

The total amount of wages collected as the result of the Self-Audit process.

Employer Self-Audited Wages

The total amount of wages previously not reported to EDD as determined through the Self Audit process.

Employer Self-Reported Employees

The total number of employees previously not reported to EDD as determined through the Self-Audit process.

Number of Licenses Checked

The number of required construction contractor licenses checked through CSLB's state database.

Cases Referred to District Attorney's offices for criminal prosecution

Cases referred by DLSE and CSLB to District Attorney Offices.

Cases resulting in criminal conviction

Cases referred by DLSE and CSLB to local District Attorney Offices that have resulted in criminal convictions.

Appendix I – EEEC Citations Issued

Economic and Employment Enforcement Coalition Summary of EEEC Citations Issued

	2005-2006		2006-2007		2007-2008		2008-2009		Total	
	Number of Citations	Citation Assessments								
Failure to have Workers' Compensation*	461	\$3,751,750	346	\$3,074,000	329	\$1,796,000	387	\$2,041,150	1,523	\$10,662,900
Failure to provide itemization of wage statements/cash pay	274	\$2,667,500	285	\$4,881,400	276	\$3,654,700	293	\$4,396,600	1,128	\$15,600,200
Failure to pay overtime	31	\$77,750	33	\$153,400	38	\$103,650	22	\$45,950	124	\$380,750
Failure to pay minimum wage	17	\$36,000	21	\$183,800	38	\$180,750	34	\$92,550	110	\$493,100
Employment of minors	79	\$98,000	74	\$74,500	55	\$56,500	31	\$18,700	239	\$247,700
Failure to provide garment records	121	\$173,700	92	\$143,900	85	\$111,150	31	\$41,100	329	\$469,850
Failure to provide proof of garment registration	91	\$150,650	57	\$84,600	54	\$77,900	35	\$31,800	237	\$344,950
Garment Confiscations & Notice of Joint Liability	55	N/A	27	N/A	40	N/A	33	N/A	155	N/A
Failure to provide proof of car wash registration	N/A	N/A	58	\$537,200	36	\$313,900	42	\$381,300	136	\$1,232,400
Failure to have required Contractors License (Construction & Farm Labor)	119	\$319,500	62	\$348,300	17	\$64,550	21	\$89,300	219	\$821,650
Unlawful advertisement	28	\$13,050	9	\$4,700	139	\$1,750	130	\$11,500	306	\$31,000
Health & Safety Violations & Current Penalties	3,395	\$1,583,027	3,548	\$1,863,267	3,602	\$1,840,104	3,302	\$1,775,905	13,847	\$7,062,303
Other (CSLB & DOL)	26	\$83,078	62	\$69,700	141	\$738,900	146	\$541,600	375	\$1,433,278
Total	4,697	\$8,954,005	4,674	\$11,418,767	4,850	\$8,939,854	4,507	\$9,467,455	18,728	\$38,780,081

*Failure to have workers compensation insurance also results in Stop Orders that prohibit the use of any employee labor until proof of valid insurance is provided. The employers are obligated to continue to pay all employees their normal wages until the "Stop Order" is removed or for 10 days, whichever is first (Labor Code Section 3710.1).



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