



# California AFL-CIO News

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## Workers' Comp Accord

Labor, management and the insurance industry this week announced agreement on an overhaul of California workers' compensation that will raise benefits dramatically and reduce the rate at which costs have been skyrocketing.

Gov. George Deukmejian said he would sign legislation putting the historic agreement into effect. The governor, who joined in making the announcement Wednesday at a Capitol news conference, urged bipartisan support of

bills that are expected to be submitted within two weeks under the title of Workers' Compensation Improvement Act of 1989.

John F. Henning, executive secretary-treasurer of the California Labor Federation, said the agreement would:

- Put more than \$2.5 billion in additional money into the pockets of injured workers in the next three years.
- Raise benefits for more than 75 percent of the California workforce in event of illness, death or injury.
- Boost maximum weekly benefits from the current \$224 to an estimated \$511 in three steps between now and Jan. 1, 1992, an increase of 125 percent.
- Make the maximum benefits equal to the state's average wage at the start of 1992.
- Index benefits to the average wage, protecting them from erosion in future years.

"This is a historic victory," Henning declared at the news conference. "We no longer will have to come as political beggars time and time again. We will have the assurance that the benefits will increase with the average weekly earnings in the state."

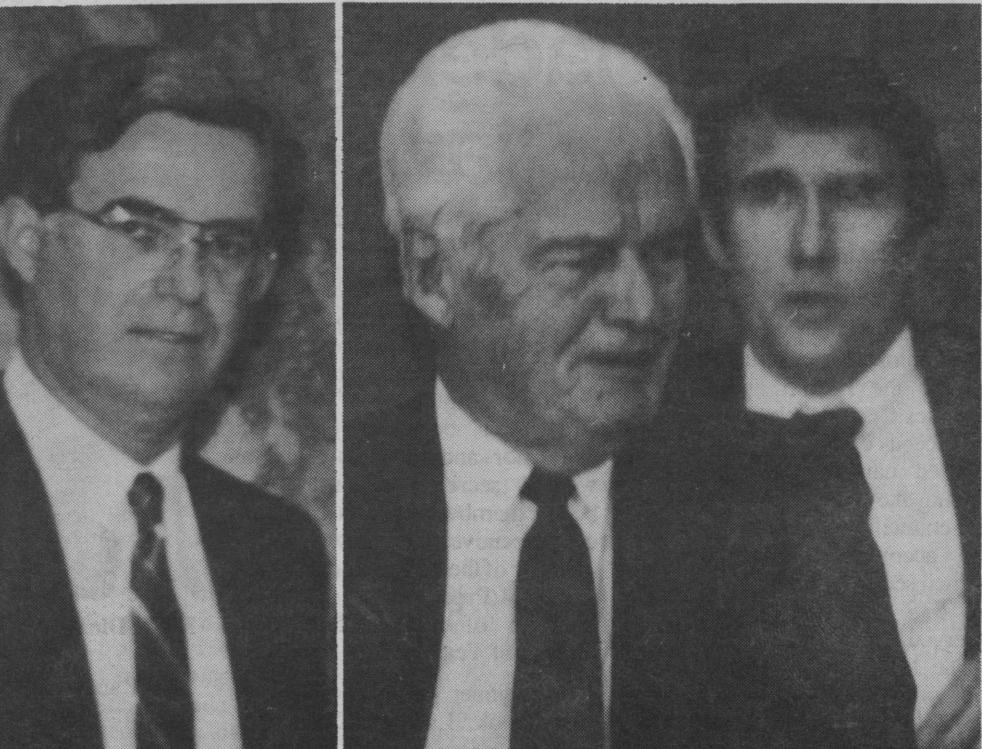
Gov. Deukmejian said, "I am told that this is the first time since the workers' compensation system began in 1913 that there has been such a comprehensive agreement on changes."

"The proposal that all of these participants have worked hard to put together includes a number of significant reforms...."

"I certainly would urge the Legislature to take advantage of this important opportunity and act as quickly as possible to pass this proposal," Deukmejian added.

Henning said the California Applicants' Attorneys Assn. had been invited to comment on the proposal but had not responded.

Nevertheless, the applicants' attorneys circulated a critical "review" of the



Teamsters' Gerald O'Hara, left, and Jack Henning and Tom Rankin of state federation, in right photo, announce compensation accord.

agreement at Sacramento immediately following the news conference.

Henning pointed out Wednesday that California workers' compensation benefits have sunk to 46th among the states since the last increase was negotiated in 1982.

Meanwhile, it was noted, insurance rates paid by employers are among the highest in the country and are rising at an accelerating rate.

"It's been a deplorable situation," the state AFL-CIO leader declared.

Henning, in answer to questions, commented on changes proposed in the procedure for selecting doctors to determine permanent partial disability rates of injured workers.

He called this "a subject of continuing dispute and, in my mind, distortion over

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## Vocational Rehab Proposals Told

Stress-related disability would remain compensable in all cases related to job conditions under the new workers' compensation proposal.

There would be limitations on claims in some so-called "mental-mental" cases in which no injury and no physical manifestations are involved.

Such cases currently account for about two percent of claims, according to state records.

One group of cases in which claims would be limited involves worker misperceptions about cause of incapaci-

ty. It is illustrated by the litigation that has gone into law books as the Albertson's Case.

An incapacitated supermarket worker blamed harassment on the job and won even though her supervisors were backed up by co-workers, relatives, friends and the worker's own psychiatrist, all of whom testified that job conditions had nothing to do with the woman's problems.

Compensation also would be limited in instances where a worker claims benefits

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## Medical Panel Key to Plan

The new workers' compensation proposal calls for establishing a statewide panel of impartial medical evaluators to determine existence and extent of permanent disability.

A doctor would have to spend at least one-fifth of his or her time actually treating patients in order to be eligible.

The new proposal also would impose new regulations on applicants' attorneys. Litigation costs of workers' compensation cases hit \$1.456 billion last year, rising sharply from \$220.9 million in 1978.

The medical evaluator plan is aimed at rising costs under the current system.

The average workers' compensation medical report cost \$1,033 in California last

year, according to state figures. The average had climbed to that price from \$814 two years earlier.

Multiple reports are ordered by both sides in contested compensation cases. Frequently the reports are done by doctors who specialize in this work without actually treating any patients.

The new plan calls for a major reorganization of the Medical and Chiropractic Advisory Committee, which would select doctors eligible for a place on the IME list.

Members of the committee — like the doctors on the IME list — would have to spend at least 20 percent of their time treating patients.

The committee would have 10 members under the proposal: six doctors of medicine, two doctors of osteopathy and two chiropractors.

Half would be appointed by the governor and half by the speaker of the Assembly and president pro tem of the Senate. Any group interested in commenting on committee nominees would have the opportunity to do so.

A key proposal is initial evaluation of injury by a doctor. If both sides could agree on who shall do this, the doctor would be designated "agreed medical examiner," or AME.

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# DAD's Day Campaign Takes Shape

Edward J. Carlough, president of the Sheet Metal Workers, and Joseph F. Maloney, secretary-treasurer of the AFL-CIO Building and Construction Trades Department, have been named co-chairs for the third annual Dollars Against Diabetes Day (DAD's Day) fund drive on Father's Day, June 18.

The highly successful fund drive brings out building trades members each Father's Day to solicit contributions at shopping malls and

other public places.

The 1989 goal is to raise \$1 million for the first time since trade unionists launched the program in 1987.

The beneficiary is patient care and research at the University of Miami Diabetes Research Institute. Collections will go into the "Blueprint for Cure" fund sponsored by Building and Construction Trades Department to finance new facilities and services at the university

hospital.

More than 20,000 volunteers collected \$800,000 in 140 cities across the country in last year's DAD's Day drive. The total was \$500,000 in 1987, the first year of the drive, and organizers were confident they'd reach their \$1 million goal this year.

DAD's Day was endorsed by the Executive Council of the national AFL-CIO, which called the event "yet another example of organized

labor's community activism and dedication to the cause of building a better society through volunteer efforts."

Robert A. Georgine, president of the Building and Construction Trades Department, predicted that the \$1 million goal would be reached.

"The hard work of union members and other concerned citizens on DAD's Day will take us a giant

step toward a cure for diabetes," Georgine declared.

Regional and local coordinators for DAD's Day will be announced shortly, Carlough and Maloney said.

DAD's Day is the largest single fundraising effort in the Building Trades' Blueprint for Cure campaign, which so far has amassed \$3.8 million toward a goal of \$10 million.

## Schools Crisis Conference Topic

the University of California Institute of Industrial Relations at University of California-Berkeley, the state Public Employment Relations Board and the Bureau of Labor/Management Relations and Cooperative Programs of the U.S. Department of Labor.

Also joining in sponsorship are the Association of California School Administrators, California School Boards Association, California Public Employee Relations and Policy Analysis in California Education.

The agenda lists new classroom issues and trends, an update on problems and current solutions, impact and implementation of Proposition 98, new systems of problem solving, and results of a labor management survey conducted by the Public Employment Relations Board.

The fee for the conference will be \$135. Registration will be limited to 200 participants. Details can be obtained from the Institute of Industrial Relations, 2521 Channing Way, Room 300, Berkeley, CA 94720. The phone is (415) 642-0323.

## Datebook

Communications Workers of America Convention: May 1-5, Los Angeles.

Joint Legislative Conference: May 22-24, Radisson Hotel (formerly the Wood-lake Inn), Sacramento.

Executive Council, California Labor Federation: June 6-7, Radisson Hotel, Sacramento.

AFL-CIO Secretary-Treasurers Conference: June 7-8, San Jose.

AFL-CIO Union-Industries Show: June 9-12, San Jose Convention Center.

United Auto Workers Convention: June 18-23, Anaheim.

AFL-CIO National Convention: Nov. 13-16, Washington, D.C.

### Publisher's Notice

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## Fresno-Madera To Honor Diaz

Rudy Diaz, secretary-treasurer of Teamsters Local 616 of Fresno, is to be honored as Labor Leader of the Year on May 19 at the 10th annual benefit dinner sponsored by the Committee on Political Education of the Fresno and Madera Counties Central Labor Council.

Proceeds of this year's event will be used mainly to pay the cost of mailing the Valley Labor Citizen, the council's revitalized newspaper, according to Ray Shilling, council secretary-treasurer. Tickets are \$35. Tables of ten can be reserved.

The benefit will begin at 6:30 p.m. with a no-host social hour at the Golden State Plaza. Dinner is scheduled at 7:30, and dancing will

follow dinner and the presentation program.

Diaz, a native of Fresno, joined the Teamsters 30 years ago. He worked 21 years at Bonner Packing Co., serving as plant shop steward before joining the staff of Local 616. He's been an organizer, negotiator and business agent as well as secretary-treasurer. He's been a member of the Labor Council Executive Committee and a member of the Policy Committee of the Food Processing and Produce Division of the Western Conference of Teamsters.

The dinner committee includes Artis Cook, Laborers Local 294; Margaret Betancourt, Musicians



Rudy Diaz

210; Randy Chan, Bakers 85; Ben Ortega, Teamsters 616, and Shilling.

## Economic Conversion L.A. Topic

George Kourpias, president-elect of the International Association of Machinists and Aerospace Workers, is scheduled to be a principal speaker at a conference on the impact of economic conversion from military to peaceful production Saturday, June 10, in Los Angeles.

William R. Robertson, executive secretary-treasurer of the Los Angeles County Federation of Labor and a vice president of the California Labor Federation, is to introduce Kourpias.

Ophelia McFadden, general manager of Service Employees Local 434 and also a state federation vice president, is to chair the conference.

The day-long event will be held at the headquarters of Local 770 of the United Food and Commercial Workers, 630 Shatto Place.

Another principal speaker will be Professor Seymour Melman of

Columbia University, an authority on economic conversion.

The conference, which is scheduled to open at 9:30 a.m., will include panel discussions and workshops on problems arising from a shift in the economy from weapons of war to peaceful pursuits, the need for retraining and relocation of workers, and the role of the labor movement in achieving economic conversion.

A \$10 registration fee, which will cover a box lunch, coffee and conference materials, is being suggested by the sponsor, California Unions for a Comprehensive Nuclear Test Ban, Economic Conversion for Jobs, Peace and National Security.

Details can be obtained from Henry Berkow, executive officer of the organization, at 214 South Loma Drive, Suite 8, Los Angeles 90026. The phone is (213) 484-5307.

## Iowans Fight Convict Scabbing

The Iowa Legislature is debating a bill to give that state a portion of the convict labor protections that Gov. George Deukmejian wants repealed in California.

The need for the legislation became evident when prisoners were hauled through a picket line to break a strike at a furniture factory

near Davenport last summer.

The employer had made a deal with prison authorities. All the convicts needed to operate the plant behind the picket line were bused through the gates, ostensibly under a work-release program that had been established with labor support.

The bill currently before the Legislature would prohibit only use of convicts as strikebreakers.

Even so, there is opposition.

During hearings week before last, spokespersons for employer groups and the Iowa Right to Work Committee said they opposed the bill because it would infringe upon

convicts' rights.

Convicts, they insisted, have as much right as anybody to scab.

"People can make up their own minds as to whether to cross a picket line," a Right to Work Committee leader was quoted in the Sioux City Journal.

Donald Rowen, executive vice president of the Iowa Federation of Labor, told legislators that supplying strikebreakers amounts to taking sides in labor disputes.

"We don't think the state ought to be a participant in that exercise," Rowen declared.

Mark Smith, secretary-treasurer of the Iowa Federation of Labor, denounced prison authorities for turning the work-release program into a weapon for enemies of unions.

"We've strongly supported programs to get these people re-established back in society with good, decent-paying jobs because we understand that lack of a steady job with a living wage is a major cause of crime," Smith told the California AFL-CIO News this week.

"Then they turn around and use this program to scab on us," the Iowa AFL-CIO leader added.

Supporters of the bill also argued that sending convicts through picket lines as scabs is a poor way to prepare them for life outside prison walls.

## Seniors Set Capitol Rally

Seniors from throughout California are scheduled to assemble in Capitol Park at Sacramento on May 17 to support a broad agenda of legislation during their 19th annual rally.

Several thousand are expected to attend. Seventy buses already have been chartered to bring participants from cities as distant as Fresno and Eureka. Others will arrive by air. Many will drive.

The main targets are national and state health plans, improvements in Medicare and Medi-Cal, retention of cost of living raises for the needy, action on homelessness, services to youth, countering the "crack" cocaine problem and reconversion of the economy to peaceful production.

Speakers will be heard during a program beginning at 10 a.m. in the park. There will be entertainment, including music by legislat-

ors, during the picnic lunch starting at noon. This will be followed by a march around the Capitol and meetings with legislators in their offices. The rally is scheduled to end at 3 p.m.

The rally is sponsored by the California Legislative Council for Older Americans and some 40 advocacy groups. The California Labor Federation is a sponsor. Members of Federation of Retired Union Members chapters throughout the state are scheduled to take part.

Lt. Gov. Leo T. McCarthy is scheduled to welcome the seniors to the Capitol at the start of the rally.

Lawrence Smedley of Washington, D.C., executive director of the National Council for Senior Citizens, is to be a featured speaker. Others are Assembly Member Maxine Waters, D-L.A.; Dr. Lee

Strohben, California Senior Legislature, and Clarissa Ward of San Francisco. Members of the audience will have the opportunity to speak as well.

Honors or awards are to be presented to Assembly Speaker Willie L. Brown, Jr., D-San Francisco; Senate President Pro Tem David Roberti, D-L.A.; Assembly Member Lloyd Connelly, D-Sacramento, and Sen. Henry Mello, D-Monterey.

Presiding at the morning session will be Barbara Pontecorvo, Fresno; Ed Malone, Oakland, and the Rev. Edward L. Peet, San Francisco.

Music during the picnic lunch will be by the Derby Club Jazz Band, led by Sen. Mello, chair of the Senate Committee on Aging, and including Sen. Ralph Dills, D-Gardena, on saxophone.

# 'Guest of Honor Leaves the Tips

Steve Martin accepted the Alameda County Trade Unionist of the Year Trophy and last Friday night gave in return a distillation of his years of experience as head of the Central Labor Council there.

"Never forget that a labor council is adversarial by nature. We are not mediators," said Martin, who retired earlier this year as council executive secretary-treasurer.

"A council always enters a dispute when the sides are unequal; it is our job to even things up," Martin told the overflow dinner crowd of more than 400 at the Blue Dolphin in San Leandro.

Pressure, he said, should be exerted through "imaginative action and militancy, not through sugar and honey, or mediation."

There was more:

"Our picket lines in Alameda County always have been the best around because we use civil disobedience and escalation of imaginative pressure as a means of achieving our goals, never as ends in themselves....

"Never negotiate without knowing your goals and your expectations of reaching them... it is not an osmosis process."

"Never fall in love with a politician; politicians are unable to return passionate love," Martin continued. "They need us more than we need them."

The large contingent of practicing politicians in attendance, most of whom had heard this portion of Martin's advice before, applauded along with the rest of the audience.

Martin also had something for Owen Marron, his successor as executive secretary-treasurer of the Alameda County Central Labor Council.

He gave Marron a pick handle that

workers on the Caldecott Tunnel between Alameda and Contra Costa counties had presented to his grandfather, Louis Martin, a business agent for the sheetmetal workers, as a symbol of trade union militancy when the project was organized in the 1930s.

John F. Henning, executive secretary-treasurer of the California Labor Federation and principal speaker for the evening, praised Martin for continuing the militancy and political liberalism of the late Dick Groulx, his predecessor, and Bob Ash, Groulx's predecessor at the helm of the Alameda council.

"In the past half century there were two general strikes called in the United States, one in the City of San Francisco as part of the great maritime workers uprising, and the other in the city of Oakland against the Kahn Department Stores," Henning said.

"I believe that speaks to the kind of economic militancy that has identified these labor councils.

"Through all the years we've had leadership here completely devoted to the work of the rank and file and to the existence of labor unionism," Henning continued. "No compromise in any way."

"And, secondly, Steve has the political liberalism that is so necessary... because without it the labor movement withers."

"Steve is one of those who has understood the destinies of the labor movement. A third-generation trade unionist," Henning continued. "We thank him for his service. We regret that at his young age he is going on to other fields of endeavor."

Henning praised Martin's service as a vice



Steve Martin, left, presents his grandfather's pick handle to Owen Marron.

president of the California Labor Federation. He concluded:

"Steve, we thank you not only for your leadership as head of the council. We thank you for the fact that all of your adult years you have been committed to the advance of the working people."

Council president Judy Goff introduced Marron for presentation of awards, which included a trophy for Martin and another for his wife, Cindy, long a labor activist.

The entire Alameda County representation at Sacramento was there with a resolution and colorful plaque from the Legislature: Senators Nick Petris and Bill Lockyer and Assembly Members Delaine Eastin, Tom Bates, Elihu Harris and Johan Klehs.

Chairperson Don Perata of the Alameda County Board of Supervisors came with another plaque along with Supervisors Mary King and Charles Santana. Mayors and city council members were scattered throughout the hall.

Martin, a third-generation Alameda County trade unionist, started as a sheet metal worker. He was a representative for SEIU Local 390 — since merged into Local 790 — and joined the council staff as assistant to Groulx in 1972. He left in 1975 to work for HERE Local 50 in Hayward, where he was elected secretary-treasurer. He came back to the council as assistant secretary in 1981 and was elected executive secretary-treasurer in 1986 upon Groulx's retirement.

## Labor Educators Ready Conference

Academics and authors from throughout the country will exchange views with trade unionists in 19 discussion sessions to be held during the 15th Annual Southwest Labor Studies Conference next Friday and Saturday, April 28 and 29, in San Francisco.

The event is the yearly gathering of the Southwest Labor Studies Assn., representing labor educators. Co-sponsors this year are the Labor Studies programs at San Francisco Community College and San Francisco State University, the Labor Archives and Research Center at S.F. State, and the Center for Labor Research and Education at University of California-Berkeley.

The conference is to take place at S.F. Community College Southwest Center. There are two keynote speakers.

Sally Miller, professor of history at Temple University, will speak Friday morning on "A 'Woman's Wage': Symbolic Meanings and Social Consequences." The Saturday keynoter will be author Tom Ferguson, speaking on "Labor, Business and the Democrats in the 1988 Election."

Dr. Philip P. Mason, director of the Walter Reuther Library at Wayne State University in Michigan, will speak at lunch Friday on "Using FBI Records in the Reuther Library for Labor History Research." Robert W. Cherny, chair of the S.F. State Department of History, will chair the lunch program.

The business meeting of the association will be held immediately following lunch on Saturday.

The annual Southwest Labor Studies Association Award for Distinguished Service to the Labor Movement will be presented at a reception starting at 5 p.m. on Friday.

A pre-conference reception honoring keepers of the labor record, persons who kept labor's

records as librarians and archivists, will be held 7:30 to 9:30 p.m. Thursday at the S.F. State Labor Archives and Research Center. John F. Henning, executive secretary-treasurer of the California Labor Federation, will speak.

Sally Miller, association president, and Walter Johnson, secretary-treasurer of the San Francisco Labor Council, will welcome participants before the keynote address by Kessler-Harris on Friday.

Three discussions are scheduled to be in session from 10:30 a.m. until noon on Friday. They are:

• The Mexican Experience in the United States: Work, Unions and Community, with Lupe Frias, U.C.-Berkeley Department of Economics as the chair.

Luis Leobardo Arroyo, Humboldt State University, will deliver a paper on "The Los Angeles AFL and Mexican Workers, 1900-1932." Juan R. Garcia, University of Arizona, will give a paper on "Mexican Women and the Formation of Mexican Colonias in the Midwest, 1914-1932."

• Pros and Cons of Quality-of-Worklife and Labor-Management Cooperation, with John Evans of San Jose State University as chair.

Panelists are Mike Parker, author of "Inside the Circle;" Graham Vane, president of Letter Carriers Branch 1280, and Jeffrey Vincent, Indiana State University Division of Labor Studies.

• The Catholic Church and Organized Labor, chaired by Peter Donohue, head of the S.F. State Labor Studies Program.

Panelists are Michael Ayers, UFCW Local 1100 and the Catholic Labor Committee; Jack Cunningham, AFGE Local 239, and Patrick W. Henning, consultant to the Assembly Labor and Employment Committee and executive director of the Catholic Labor Institute of Southern California.

Four discussions are scheduled to be in session from 2 to 3:30 p.m.

Friday:

• Black Labor History in the San Francisco Bay Area, chaired by Al Browning of the Labor Studies Department at Lake Merritt College, Oakland.

Tony Moltor, U.C.-Davis, will deliver a paper on the history of Pullman porters in the Bay Area. Paul Cimbala, Fordham University, is to comment.

• Teaching Labor History, a roundtable discussion, will be chaired by Norm Diamond, author of "The Power in Our Hands."

• Changing Roles of Women in the Labor Movement, chaired by Linda Gregory, AFSCME District Council 57.

The panel will include Marcel Schultz, San Mateo County Building and Construction Trades Council; Karen Wing, American Postal Workers Union, and Camille Ann Nelson, SEIU Local 790.

• Labor and Video in the 80s, chaired by Fred Lonidier, U.C.-San Francisco.

Panelists are Fred Glass, California Federation of Teachers; Danny Beagle, editor of the ILWU Dispatcher, and Steve Zeltzer, Labor Video Project.

Four additional discussions are scheduled from 3:30 to 5 p.m.:

• Labor, Politics and Women, chaired by Glenna Matthews, U.C.-Berkeley.

Panelists are Sue Englander, S.F. State History Department; Kathy Brown, University of Washington History Department, and Rochelle Gatlin, S.F. State Social Sciences Department. Sue Miller, University of the Pacific History Department, will be commentator.

• Employment Education Approaches to Labor Organizing and Worker Retraining Programs, to be chaired by Susan Rosenblum of the Chicago Mayor's Office of Employment and Training.

On the panel are Rena Soifer,

UAW/Ford/EMU Academy; Susan House, UE Local 1154, and Vivian Godwin, Plant Closures Project.

• Maximum Hour Legislation, chaired by Peter Phillips of the University of Utah Economics Department.

Panelists are Tom Rankin, research director of the California Labor Federation, and Nancy Breen, Connecticut College, who will deliver a paper on "The 1911 California Maximum Hours Law."

• Labor and Revolution in Central America, chaired by George Strauss of the U.C.-Berkeley Institute of Industrial Relations.

Panelists are David Jessup, deputy director of the AFL-CIO American Institute for Free Labor Development, Steve Diamond, and John Molloy of the Postal Workers.

Saturday morning discussions include:

• Don't Mourn for the NLRB, chaired by Marty Morgenstern of the U.C. Berkeley Center for Labor Research and Education.

Panelists include Sherri Chiesa, president of Hotel and Restaurant Employees Local 2 and a vice president of the California Labor Federation; Mike Eisner, CWA and Association for Workplace Justice; and Susan Sachen, SEIU Local 1877.

• Labor and Politics in the Depression, chaired by Jeff Lustig, Sacramento State University Center for California Studies.

Panelists include Stanley S. Phipps, New Mexico Military Institute, with a paper on "Labor and Politics in Shoshone County, Idaho, in the 1930s," and Jim Gregory and Nancy Quam-Hickam, U.C.-Berkeley, with a paper on "Who Voted for Sinclair? Electoral Constituencies in the 1934 EPIC Campaign."

• Innovations in Health and Safety Training, chaired by Robin Baker of the U.C.-Berkeley Labor Occupational Health Project.

Merri Weinger, San Francisco Department of Public Health, will present a paper on "Empowerment Education in Workplace Health and Safety Programs," and Elaine Askari, U.C.-Berkeley LOHP, on "AIDS Programs in Local Unions."

• Organizing in the Asian Community, chaired by Debbie Moy, SEIU Local 790.

Panelists are Dennis Hayashi, Asian Law Caucus, and Warren Mar, HERE Local 2 and the Chinese Progressive Assn.

Afternoon sessions on Saturday are:

• Longshoremen on and off the Waterfront, chaired by Archie Green, folklorist and retiree from the University of Texas.

Eric Arneson, Harvard Department of History, will present his paper on "Learning the Lessons of Solidarity: Work Rules and Race Relations on the New Orleans Waterfront, 1880-1901." Ed Beechert, University of Hawaii, will present a paper on "Radical Unionism and the Social Relations of Production: The Case of the ILWU, Hawaii."

• Drug Testing: An Industry Perspective, chaired by George Cobbs, ILWA/PMA substance abuse director.

Panelists are Gunther Nuerber, Crowley Maritime; Lee Vandervelde, Teamsters, and Tamara Cagney, Health Matters.

• Economic and Labor Relations Legacy of the Depression, with Cletus Daniel, Cornell University, in the chair.

Panelists are Bert Gross, U.C.-Berkeley Peace and Conflict Studies, whose topic is "The Rise and Fall of Full Employment;" Robert M. Smith, University of Toledo, "Industrial Spies: Agents of Oppression or Profiteers?" and Robert Reinders, University of Nottingham, "The Transformation of Social Work During the Depression."

# Medical Panel Role Is Crucial

(Continued from Page 1)

If the two sides couldn't agree, the workers' compensation administrative director would be required to furnish a list of four doctors chosen randomly from the IME list, and the injured worker would be allowed to pick the one to conduct the examination.

There would be provision for further appeals, but testimony and records of the primary physician would be admissible with a presumption of correctness that could be reversed only by a preponderance of evidence.

An employer who challenged a report by an AME or IME could get a second opinion. But the employer would be obliged to pay also for a second doctor for the injured worker.

If only the worker challenged the first report, he or she would have to pay for a second doctor's report. But the worker wouldn't be obliged to pay for a second report for the employer also.

Any employer who challenged an AME finding would have to pay attorney fees for the worker.

The regulations on attorneys call for presentation of fees to a workers' compensation judge for approval within 10

days after an agreement is made.

They also call for presentation by the attorney to the worker-client of a "disclosure form" at the first consultation describing administrative procedures available, the range of fees customarily approved by judges, how the worker can obtain compensation without incurring attorney fees, and the phone number of the Office of Benefit Assistance and Enforcement.

Employers would be required to provide injured workers, or survivors in event of a death, with claim forms approved by the director along with a notice of possible eligibility for compensation.

To speed things up, a presumption of the compensability of any claim would be established if an employer failed to answer within 60 days.

New standards for payment of benefits also are included.

The first payment of permanent or temporary benefits would have to be made within 14 days of the employer's knowing of the injury, and subsequent payments would have to be made every two weeks.

Late payments would be subject to automatic 10 percent penalties.

## Agency's Task: Protect Injured

The state Division of Industrial Accidents would be renamed Department of Workers' Compensation and subjected to a major reorganization under the new proposal for restructuring the system.

The division would be charged with protecting the interests of injured workers.

Its administrator would be empowered to assess employers for any operating costs above a general fund base of \$52 million adjusted annually for cost of living and changes in population.

It is estimated that 100 to 150 new staff members would be needed to handle the division's new tasks.

Members of the Workers' Compensation Appeals Board, meanwhile, would have their terms of office extended from four to six years. Terms of all current members would expire next Dec. 31, and they or their successors would be named to staggered terms.

The Appeals Board also would turn over all its non-judicial duties to the reorganized division.

The plan calls for three offices within the division.

An Office of Benefit Assistance and Enforcement would administer assistance and claims mediation functions, benefit payments and notice re-

quirements, conduct audits and collect amounts found owing. This office also would take over from workers' compensation judges the responsibility for approving compromise and release agreements.

It would assess new civil penalties for fraudulent claims.

An Office of Benefit Determination would assume functions of the current Rehabilitation Bureau and Disability Evaluation Bureau.

An Office of Claims Adjudication would provide judicial determination of disputes that couldn't be solved informally in the Office of Benefit Assistance and Enforcement.

The insurance industry has agreed to undertake workers' compensation reforms that are expected to shave \$737 million in three years off premium employers otherwise would be paying.

The industry will cut the 35 percent

## Comp Plan Offers Benefit Increases

(Continued from Page 1)

pegged at two-thirds of earnings, but the new, higher ceilings will guarantee more benefits for most.

Under the present system, a small number of mostly intermittent, part-time or temporary workers have been able to collect more in compensation benefits than they would have been paid on the job. The present \$112 weekly minimum will be phased out in three steps until, in 1992, the smallest payment will be 100 percent of the affected worker's weekly wage.

Death benefit increases would start next Jan. 1. The proposal calls for:

- Raising the current \$70,000 maximum to \$95,000 where there is one survivor of a worker who dies

from job-induced injury or illness.

- Boosting the current \$95,000 to \$115,000 where there are two or more survivors.

In addition, death benefits will continue to be paid at the deceased worker's weekly temporary total disability rate until the youngest surviving child reaches the age of 18, even if the aggregate total exceeds the maximum payment.

Burial allowances increase next Jan. 1 from the current \$2,000 to \$5,000 for private sector and state employees and to \$4,500 for local public agency employees.

Permanent partial disability benefits would be paid sooner under the new proposal, although totals would not increase.

## Insurers Agree To New Reforms

overhead expense figure it uses in calculating the compensation rates by one percent in each of the next three years, as part of the plan to fund benefit increases and slow the skyrocketing surge in costs.

With no other changes, the benefit increases for injured workers contained in the new workers' compensation proposal would drive premiums up 17.2 percent in three years, according to industry estimates.

The projection, if the proposals are accepted, is for an increase of 6.6 percent in premiums rather than 17.2.

The insurance industry also has agreed to two additional public members to the Workers' Compensation Rating Bureau Governing Board, one to represent employers and one to represent labor.

Other insurance industry initiatives include adding a labor member to the board of directors of the State Compensation Insurance Fund.

A special commission of business school faculty members to review and evaluate the workers' compensation pricing structure also is part of the new plan.

Also proposed is monitoring by the Rating Bureau of changes in the costs of the proposed reforms.

## Stress: What Would Change

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for stress induced by such "legal" employer actions as job transfer or reprimand with just cause.

However, the proposal would provide a new civil cause of action enabling a worker accusing his or her employer of

deliberately attempting to inflict stress to sue for damages that could exceed anything available under workers' compensation.

Examples of stress were listed by all parties to the negotiations as expressions of the kinds of cases in which they meant

to impose no limitations on compensability.

Included in the list are:

- A worker falls from a scaffold, is physically injured and, due to mental stress, is no longer able to work on a scaffold.
- A worker is assaulted at work and, due to fear, is unable to return to the same work.
- A worker, due to family-related mental stress and work-related mental stress, suffers from disabling nervous tremors and is unable to return to the same work.
- A worker, due to cumulative mental stress at the work place, suffers migraine headaches and is unable to return to the same work.
- A worker, due to family-related mental stress and work-related mental stress, suffers from an ulcer and is unable to return to the same work.
- A worker, due to cumulative work-related mental stress, including lawful disciplinary action, develops a rash and due to mental stress is unable to return to the same employment.

## Stress Claims: No Changes for Most

Proposals to speed up vocational rehabilitation contained in the new workers' compensation agreement aim at curbing costs without interfering with retraining of injured employees, according to negotiators who shaped the plan.

The annual number of claims for vocational rehabilitation increased from 5,236 in 1978 to 28,446 in 1986, according to state figures.

Vocational rehabilitation accounted for 12.8 percent of the bill to insured employers in 1987, according to the same figures. It was 8.1 percent in 1980.

As a counter to these rising costs, the negotiators agreed that in certain cases a

portion of the permanent disability award could be applied to the cost of vocational rehabilitation.

The offset would apply only where the worker's permanent disability was greater than 10 percent and less than 70 percent. It would not apply where the employer agreed to take the worker back in an alternative job.

To encourage such reemployment, employers would be offered credit against future insurance premiums.

An offset also would be reduced where a worker failed to achieve the wages envisioned in his or her rehabilitation plan.

## Negotiators Tell Accord

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the long years," and added:

"The reality is that both sides — the applicants' attorneys and the defense attorneys — have what is beyond question a stable of doctors to whom they refer claimants when the measure of disability is being argued. . . ."

He noted that the proposal calls for a committee of medical and chiropractic practitioners to develop a list of doctors regarded as competent to assess worker injuries.

The committee would be appointed by the governor, the speaker of the Assembly, and the president pro tem of the Senate. Henning said he was confident provision had been made to keep the process free from bureaucratic control and political bias.