

Labor Commissioner's Office Rank-And-File Workers
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Via Email Only

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**Re: 2023-104-California Labor Commissioner's Office — Backlog of
Wage Theft Cases (Senator Glazer)**

Dear Chair Alvarez, Vice Chair Catherine Blakespear, and Members of the Joint
Legislative Audit Committee:

We respectfully submit this letter out of grave concern that the currently proposed audit
of wage theft cases (2023-104) is destined to fail because it was conceived without the
input of the affected state workers and is focused on the wrong issues. We request that
the committee consider an alternative audit of the non-competitive salaries in the Labor

Commissioner's Office and the extreme difficulty in hiring and retaining staff due to Department of Industrial Relations HR ("DIR-HR") and CalHR procedures.

We are the frontline workers of the Labor Commissioner's Office. We are all here because the work of the Labor Commissioner is critically important and we believe in the mission. Like you, we believe that the backlog of wage theft cases is a serious problem that needs immediate attention. Our voices, however, were not represented in the audit proposal or at the hearing that considered it. We write this letter to add our voices to the conversation and offer our behind-the-scenes expertise.

While Senator Glazer highlighted the 32 percent vacancy rate in his audit request and testimony as a potential cause for the backlog, no one at the hearing spent meaningful time addressing the root causes for the 32 percent vacancy rate—the uncompetitive compensation, the cumbersome hiring process, and the lack of opportunities for staff promotion. This letter is intended to provide the Joint Legislative Audit Committee the perspective of current, dedicated Labor Commissioner staff on what we see as core problems from the inside and how to best target resolving these longstanding barriers to a fully staffed and effective Labor Commissioner's Office. In short, the problem is twofold: (1) non-competitive compensation for Labor Commissioner staff, especially those who process wage claims yet who are unable to attain livability within the expensive urban centers in which they serve; and (2) crippling inability to process and fill vacancies by both DIR-HR and CalHR.

For salaries, as the frontline workers of the Labor Commissioner's Office, we have seen our wages fall further and further behind our counterparts at other public agencies as well as the private sector. We have calculated that our salary lags our public sector peers by nearly 30%; CalHR agrees that the lag is at least 10%. Yet, in the last [Memorandum of Understanding \("MOU"\)](#)—which was ratified by the Legislature—the pay "raise" does not even match inflation. Thus, our real wages have fallen. This pattern has been consistent over the last several MOUs. The Labor Commissioner's workers are eager to implement the robust wage and hour laws enacted by this Legislature, but the dollars they earn become less and less valuable each year. Despite being hard-working and passionate about enforcement of wage and hour laws, Labor Commissioner staff are forced to make difficult decisions when their compensation continues to fall in value and becomes insufficient to support a family.

Every month we lose out on hiring talented individuals—and retaining current staff, which creates new vacancies—because of this gap in compensation. Former staff have gone to other public agencies in the same cities because they can earn meaningfully more money, often to do work without the high-volume pressure and complexity required by the Labor

Commissioner's Office. Current staff work harder and harder to try to make up the difference—many salaried staff consistently put in well over the forty hours per week that they are paid for—leading to burn out, low morale, and additional vacancies. We have long-standing vacancies in critical units that would address the case backlogs. However, the vacancy rate will continue to grow without first addressing the increasing, inequitable wage gap between Labor Commissioner positions and other comparable public sector jobs.

Once individuals apply, the hiring process has been slow and ineffective. For example, by the time candidates have been contacted for interviews, they have taken positions elsewhere because the process is unreasonably slow. We have asked candidates to apply multiple times for the same job because CalHR or DIR-HR has decided suddenly that there is a problem with a job posting that HR itself had already approved. Or, CALHR/DIR-HR decides, after our staff spend countless hours interviewing and vetting candidates, that the candidates from the list that HR itself provided do not meet the minimum qualifications for the position. These are not rare occurrences or minor inconveniences. They have caused substantial waste of staff time, duplication of work, and delays in filling positions for months or years. The 30%-40% vacancy rate (varying internally among units) will not be resolved for decades unless drastic changes are made to improve this process and more staff are added to Labor Commissioner, DIR-HR, and CalHR (to exclusively work alongside DIR-HR, not just audit) to work on this vacancy crisis.

In addition to the inability to hire talented staff to fill the many vacancies within the agency, we have an incredibly difficult time retaining staff. The high vacancy rate naturally leads to higher caseloads, additional work responding to members of the public inquiring about the status of their claims, lower morale due to historic backlogs, and increased stress. Moreover, there are limited opportunities for advancement within certain job classifications, causing a constant shuffle of staff between units and operational disruptions. Some staff ultimately end up leaving the Labor Commissioner's Office altogether because of the limited advancement opportunities. Likewise, although there is a need for bilingual services for the workers we serve, the process to obtain bilingual pay is overly cumbersome for staff and can be arbitrarily denied. All of this results in the Labor Commissioner's Office losing workers more quickly than it can hire their replacements.

Even a cursory comparison of DIR-HR's statistics on attrition and hires shows that they are working hard without adding much to the Labor Commissioner staff numbers. DIR-HR and CalHR continue to focus exclusively on new hires without taking any action to try to address the high attrition of the experienced staff. This approach results in a waste of time and funds to hire and train new staff without any effort to stop the hemorrhaging of

current experienced employees. Neither DIR-HR nor CalHR have explored the options available to entice staff to stay, including but not limited to geographical pay differentials for work in expensive urban areas (which DIR offered this to its own HR staff a few years back), bonuses for those in tough to fill positions/localities, and for CalHR to stop forcing depressed and non-competitive compensation packages on Labor Commissioner staff at the bargaining table.

The 30-40% percent vacancy rate means that more is asked of the current employees at the Labor Commissioner's Office. The increased workloads—coupled with the non-competitive pay with no relief in sight—is a recipe for a continued exodus of talented workers. The audit should focus on solutions that address both hiring and retention because these are the main contributors to the backlog of wage theft cases. This will require a much broader audit that looks at the practices and procedures that DIR and CalHR play in the Labor Commissioner's hiring and retention of staff.

We support the important legislation passed in recent years to strengthen workers' protections. We at the Labor Commissioner's Office are committed to executing the vision of the Legislature for robust enforcement of worker's rights laws. However, we are failing in our mission if we cannot hire and retain the necessary staff. Please note that the volume of new wage claims now *exceeds* the rate at which wage claims were being filed prior to the COVID-19 pandemic.

We are confident that a well-conceived audit will find that salaries at the Labor Commissioner's Office are well below its counterparts and that salaries are the driving force behind the high vacancy and low retention rates.

To address the hiring and retention crisis at the Labor Commissioner's Office, **DIR can immediately approve retention pay for Labor Commissioner employees and employees in other agencies suffering similar vacancy rates.** The Labor Commissioner can also provide geographic pay for its support staff that live and work in areas with a high cost of living such as Los Angeles and the Bay Area. This will lead to better retention and assist with hiring in localities where the cost of living is some of the highest in the nation. Under Section 5.12 of the bargaining agreement approved by the Legislature, these two proposals can be implemented upon simple approval of the Director of Human Resources. We ask this committee to join our calls for the Director to implement this immediately.

In addition, the proposed audit should be reframed to examine the following issues that largely appear to be outside of the direct control of the Labor Commissioner's Office itself:

- The audit should look at how the Labor Commissioner’s Office can be given greater authority to promote staff in place or reclassify experienced staff to higher-level positions. This will lead to better retention and operational stability. Currently, employees seeking promotions at the Labor Commissioner’s Office must apply to a different position in another office or unit, creating a vacancy that will not likely get filled for months or years, if at all, or they leave the agency altogether. Removing this obstacle will allow employees to promote without disrupting the work of the Labor Commissioner.
- The audit should look at salaries and how the wages at the Labor Commissioner’s Office compare with other state agencies and the private sector and make recommendations to address the pay gap so that the Labor Commissioner’s Office remains competitive with other state agencies and the private sector.
- The audit should examine the job classifications that have been allocated to the Labor Commissioner’s Office—in particular, the lack of promotional tracks for investigators, auditors/accounting professionals, office technicians/ clerical professionals, and legal assistants/secretaries. The current job classification structure in the Labor Commissioner’s Office is replete with low-level, dead-end positions that offer few real long-term advancement options. Not surprisingly, this makes it hard to recruit and retain staff. The audit should examine the role of DIR-HR, CalHR and the State Personnel Board in creating and eliminating these classifications in the Labor Commissioner’s Office.
- The audit should look at ways that the hiring process can be streamlined and simplified. This will require looking at the policies and practices of DIR and CalHR in addition to the Labor Commissioner’s Office as they play a critical role in the hiring process.
- The audit should look at the bilingual pay process and make recommendations on how that can be streamlined to meet the language needs of California’s workers.

As staff that will be directly impacted by the audit recommendations, we thought it was important to share our perspective on what causes the backlog of wage theft cases. An audit that does not focus on hiring and retention would be futile in addressing the backlog of wage theft cases. This requires a broader audit that will look at the role that DIR and CalHR play in the Labor Commissioner’s hiring and retention practices, as well as an examination of the lack of appropriate job classifications in the Labor Commissioner’s Office. We urge the Joint Legislative Audit Committee to reframe the audit to focus on

hiring and retention as those issues are the primary drivers of the backlog of wage theft cases in California.

We welcome the opportunity to meet with you and your staff regarding our concerns. You may contact us at lco.nmf.workers@gmail.com.

Sincerely,

Rank-and-file workers of the Labor Commissioner's Office listed below (in alphabetical order):

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