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January 14, 1993

To: Assemblyman Robert Shinn
Majority Staff
OLS Staff

From: Rick Engler, IUC

RE: Right to Know Program - "Single Agency" Issue
and Computerization Issue

Please find attached some documents related to the January 1991 proposal by Gov. Florio to merge the DOH elements of the Right to Know program into the DEP. Ultimately Gov. Florio decided not to proceed with this part of his consolidation proposal. The attachments summarize why this conclusion was reached. Our position on this issue has not changed.

Concerning computerization and better access to data, we do think this a fruitful area of focus. The IUC proposes that there be a working meeting involving you, your staff, specific program staff from DEPE and DOH, our Coalition firefighters and other parties to review, in detail, the current status of RTK data access and retrieval and discuss how a better system might be designed and achieved.

Please let me know your reaction to this proposal. Thank you for your consideration.

cc: Secretary of State Daniel Dalton

Main Office: 16 Commerce Drive, Cranford, NJ 07016 • (201) 272-4200

A single PEOH Program should be created by a consolidation of programs from the Department of Health, the Department of Labor, and the Department of Community Affairs.

Currently, the Departments of Health (DOH) and the Department of Labor (DOL) respectively, conduct separate health and safety inspections. It is not only difficult to coordinate but also confusing to employers. Most industrial hygienists have had safety training as part of their formal industrial hygiene training and are already capable of conducting safety inspections. Safety inspectors, however, are not trained in the principles of industrial hygiene. By merging the two departments,

MAKING GOVERNMENT SMALLER: CONSOLIDATION AND DOWNSIZING PROPOSALS

The Department of Community Affairs, which is responsible for building safety, fire safety and fire safety, and fire safety. These

proposals are currently the lead state agency in implementing

the Department of Health, the Department of Labor, and the Department of

Community Right to Know Act. The law provides the DOH

is involved in Worker Right to Know for all public

and community Right to Know for emergency responders, the

and environment, while DEP is involved in Community

GOVERNOR JIM FLORIO

JANUARY 30, 1991

- (23) Consolidate the PEOSH (Public Employees Occupational Health and Safety Program) currently operated by three different Departments into one program operated by the Department of Labor.

A single PEOSH Program should be created by a consolidation of programs from the Department of Health, the Department of Labor, and the Department of Community Affairs.

Currently, the Departments of Health (DOH) and the Department of Labor (DOL), respectively, conduct separate health and safety inspections. This is not only difficult to coordinate but also confusing to employers. Most industrial hygienists have had safety training as part of their formal industrial hygiene training and are already capable of conducting safety inspections. Safety inspectors, however, are not usually trained in the principles of industrial hygiene. By merging DOL safety inspectors with the DOH, DOH industrial hygienists could train the safety inspectors to recognize and recommend controls for workplace health hazards. This cross-training would not only provide greater efficiency in workplace inspections, by reducing the need for two separate state agencies conducting separate inspections at the same sites, but would also provide DOL with additional inspectors to meet the growing number of public workplaces that require health and safety inspections.

The Department of Community Affairs conducts inspections of building safety, structured safety and fire safety affecting the public employees. These inspections could be consolidated with those done for employee health and safety.

A single PEOSH located in Labor would eliminate duplicative functions and staff performing similar or identical activities. The effectiveness of the program would be enhanced by a single program.

- (24) Consolidate the Worker and Community Right to Know programs in the Department of Health, the Department of Labor, and the Department of Environmental Protection into one program in the Department of Environmental Protection.

The Department of Health is currently the lead state agency in implementing the Worker and Community Right to Know Act. The law provides the DOH with 40% of the funds received by the Right to Know Trust Fund, while DEP receives only 20%. DOH is involved in Worker Right to Know for all public employees and Community Right to Know for emergency responders, the community, and the environment, while DEP is involved in Community Right to Know for emergency responders, the community, and the environment.

The Department of Health is responsible for enforcing the Right to Know Survey, education and training, labeling posters, and central files in 9,278 public workplaces, and for enforcing Right to Know labeling in 37,000 private workplaces, while DEP is also responsible for enforcing the Community Right to Know Survey in 37,000 private workplaces. The Department of Health is responsible for preparing 2,500 Hazardous Substance Fact Sheets. The Department of Health must maintain a 2,500 substance hazardous substance list, while DEP needs to maintain a 161 environmental hazardous substance list.

ASSEMBLY RESOLUTION No. 269

STATE OF NEW JERSEY

INTRODUCED APRIL 8, 1991

By Assemblymen PATERO and CIMINO

- 1 **AN ASSEMBLY RESOLUTION** requesting the Governor to reject
2 certain proposals regarding the reorganization of the State
3 government.
4
- 5 **WHEREAS**, Occupational illness is a major public health problem
6 for workers and employers in New Jersey, with more than 7,000
7 new cases of, and more than 2,000 fatalities from, occupational
8 disease each year, as well as \$280 million in expenses annually
9 from the five leading work-related illnesses alone; and
10 **WHEREAS**, The Governor's January 30, 1991, report regarding
11 the reorganization of the State government, entitled "Making
12 Government Smaller: Consolidation and Downsizing Proposals,"
13 includes proposals number 23 and 24, which would remove the
14 Public Employee Occupational Safety and Health (PEOSH)
15 program and the Right to Know program from the Department
16 of Health's Division of Occupational and Environmental Health
17 and move those programs to the Department of Labor and the
18 Department of Environmental Protection, respectively; and
19 **WHEREAS**, Removing the PEOSH and Right to Know programs
20 from the Division of Occupational and Environmental Health
21 will result in that division's programs being dispersed between
22 three different departments and will therefore disrupt the
23 State's present unified occupational health effort; and such
24 dispersal and disruption are contrary to the stated general goal
25 of the Governor's report to consolidate and rationalize
26 government services; and
27 **WHEREAS**, The removal of the PEOSH and Right to Know
28 program staffs from the Division of Occupational and
29 Environmental Health will weaken those programs by
30 preventing the health professionals who comprise the staffs of
31 those programs from continuing their present regular
32 consultations with medical and epidemiological professionals
33 located in the Surveillance and Occupational Medicine
34 programs of that division; and
35 **WHEREAS**, The removal of the PEOSH and Right to Know
36 programs from the division will also undermine the division's
37 Surveillance, Occupational Medicine and Minority Health
38 programs, because all of these programs have relied on shared
39 resources, including expensive industrial hygiene sampling
40 equipment, a unified computer network, an occupational health
41 library and shared life support distribution mechanisms; and
42 **WHEREAS**, Such disruption of the division's occupational health
43 effort may negatively affect cooperative agreements worth

1 more than \$1.1 million with federal agencies such as the
2 Centers for Disease Control and jeopardize the continuation
3 and possible expansion of grants such as the current \$228,000
4 federal grant from the National Institute for Occupational
5 Safety and Health to enhance and expand the division's
6 occupational disease surveillance effort; and

7 WHEREAS, The rationale provided by the Governor's report for
8 transferring the Department of Health's occupational
9 health-related component of the PEOSH program to the
10 Department of Labor is that the transfer will enhance
11 efficiency by consolidating all parts of the PEOSH program
12 under the Department of Labor, where the occupational safety
13 component of the program is now located; and

14 WHEREAS, That rationale is inconsistent with the findings of
15 reviews of the PEOSH program by the State Office of
16 Management and Budget, the Governor's Management Review
17 Commission and the Senate Legislative Oversight Committee
18 that the present cooperative relationship between the
19 departments operating the PEOSH program has been highly
20 efficient, including the review issued by the State Office of
21 Management and Budget in September of 1990, for example,
22 which found no duplication of duties in performing PEOSH
23 inspections by the departments, noting that when the
24 Department of Health informs the Department of Labor of a
25 health violation, the Department of Labor does not reinspect,
26 but simply issues a compliance order based on the Health
27 Department's recommendation; and

28 WHEREAS, According to that same review, the Department of
29 Labor has supported changes in the "New Jersey Public
30 Employee's Occupational Safety and Health Act," P.L.1983,
31 c.516 (C.34:6A-25 et seq.) which would not only continue the
32 Department of Health's present role in the PEOSH program,
33 but also would enhance that role by permitting the Department
34 of Health to establish standards regarding health hazards
35 without the approval currently required from the Department
36 of Labor; and

37 WHEREAS, Resolutions opposing the proposed dispersal of
38 occupational health services from the Department of Health
39 have been unanimously passed by the Right to Know Advisory
40 Council and the Occupational Health Surveillance Advisory
41 Group, both of which include representatives of New Jersey's
42 business, organized labor, scientific and medical communities;
43 now, therefore,

44
45 BE IT RESOLVED *by the General Assembly of the State of*
46 *New Jersey:*

47 1. The Governor is respectfully requested to reject proposals
48 number 23 and 24 of the report, issued January 30, 1991, entitled
49 "Making Government Smaller: Consolidation and Downsizing
50 Proposals," and therefore prevent the dispersal and disruption of

1 the occupational health programs now located in the Department
2 of Health.

3 2. Duly authenticated copies of this resolution, signed by the
4 Speaker of the General Assembly and attested by the Clerk, shall
5 be transmitted to the Governor.

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7

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STATEMENT

9

10 This resolution respectfully requests that the Governor reject
11 proposals number 23 and 24 of the report, issued January 30,
12 1991, entitled "Making Government Smaller: Consolidation and
13 Downsizing Proposals," and therefore prevent the dispersal and
14 disruption of the occupational health programs now located in the
15 Department of Health.

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17

18

LABOR

19

20 Requests that the Governor reject certain reorganization
21 proposals.

DRAFT

New Jersey Department of Health Position Paper

"Making Government Smaller: Consolidation and Downsizing Proposals"
(1/30/91)

Proposal 24: Consolidate the Worker and Community Right to Know programs in the Department of Health, the Department of Labor, and the Department of Environmental Protection into one program in the Department of Environmental Protection.

The Public Health Mission of the Right to Know Program

* Mission of the RTK Program in the Department of Health - The mission of the Right to Know Program is firmly grounded in the principles of public health. Public employees who regularly work with hazardous substances and emergency responders who are potentially exposed to hazardous substances are trained to protect themselves from exposure to these substances. This training protects them from exposure to acute and chronic health hazards and reduces their risk of developing occupational diseases. These activities fit the Department of Health's mission and public health focus on prevention of disease.

* Mission of the DEP - The mission of the Department of Environmental Protection, to which the Right to Know Program is proposed to be moved, has a mission primarily focused on protection of the environment. DEP's responsibilities regarding emergency response incidents focus on prevention of pollution of the environment and exposure to community residents. DEP's mission does not include the health protection of workers and emergency responders.

Legal Requirements and Outside Evaluations

* The statute setting up the Right to Know Program, the Worker and Community Right to Know Act, requires the presence of the Right to Know Program in the Department of Health. To move the Department of Health's Right to Know responsibilities to DEP, the statute and extensive DOH regulations would have to be amended.

* The Right to Know Advisory Council was established by the Right to Know Act, with members appointed by the Governor and confirmed by the Senate, to oversee the implementation of the law. At its monthly meeting on February 8, 1991, the Council was unanimous in its strong support of the retention of the Right to Know Program in the Department of Health.

* The operational audit of the Department of Health conducted by the Governor's Management Review Commission thoroughly examined the functions of the programs in the Division of Occupational and Environmental Health and did not recommend relocation of the Right to Know Program.

Impact on the Department of Health's Initiatives

* The Year 2000 Objectives - The DOH Office of Health Policy and Research is initiating New Jersey's response to the federal "Year 2000 Objectives:

Promoting Health/Preventing Disease." Several of these objectives address issues that pertain to Right to Know mandates: Right to Know education and training leads to the reduction in deaths from work-related injuries (10.1); the reduction in work-related injuries resulting in medical treatment, lost time, and restricted work activity (10.2); the reduction in occupational skin disorders or diseases (10.4); the elimination of exposures which result in workers having high blood lead concentrations (10.8); the implementation of an occupational safety and health plan in the state for identification, management and prevention of work-related diseases and injuries (10.10); and an increase in the number of worksites that have implemented programs on worker health and safety (10.12). Removal of the Right to Know Program from the Department of Health will prevent the Department from providing effective responses to these objectives.

* The Office of Minority Health - The Department of Health has recently created the Office of Minority Health to reduce and eliminate the gross health disparities between the general population and minority constituencies. These disparities exist primarily because minorities tend to be disproportionately employed in the most hazardous occupations. Data used to monitor these morbidity and mortality trends are collected and analyzed by the Occupational Surveillance Program cooperatively with the Right to Know Program. The removal of the RTK Program from the Department will greatly reduce the Department's ability to prevent occupational illness and injury among minorities.

How the Right to Know Program benefits from being in the Occupational Health Service

* Partnership with the Public Employees Occupational Safety and Health (PEOSH) Program's mission, goals and objectives - The RTK Program works closely with the PEOSH Program because both programs protect the health of public employees in New Jersey. Efficiencies are currently realized by coordinating enforcement activities through joint RTK/PEOSH inspections and immediately directing any violations to the appropriate Program.

* Industrial hygiene consultation - Industrial hygienists from the PEOSH and Occupational Surveillance Programs jointly provide training to RTK inspectors about occupational health hazards and are available for consultation about hazards that RTK inspectors have or may encounter in workplaces during inspections.

* Education and training benefits - The Right to Know and PEOSH Programs present to various audiences joint education and training programs which cover information about both laws. Brochures, documents and videotapes prepared and obtained by the PEOSH and Occupational Surveillance Programs are used by RTK staff in education and training of public employees. Industrial hygienists from the PEOSH and Occupational Surveillance Programs are an essential part of the RTK Program's 30-hour Train-the-Trainer course.

* Occupational medicine consultation - Occupational medicine physicians from the Office of Occupational Medical Services answer numerous phone calls that are referred by the Right to Know Infoline about medical problems resulting from occupational or suspected occupational exposure to workers, both public and private.

The Adverse Impacts on the Division of Occupational and Environmental Health (DOEH) from the Loss of the Right to Know Program

* Computer Network - The Division computer network is shared by all programs in DOEH because it is cost-effective and because of the interrelated responsibilities of the different programs. Many files and records on the system are shared by staff and accessed on routine and emergency bases. Right to Know funds provided a significant source of support for creating the network. To replace components removed by the Program would be cost prohibitive, and there are no funds in the DOEH FY 92 budget for this purpose. The Environmental Health Service and the Occupational Surveillance Program, which heavily rely on the network, will have major software, hardware and data management problems without a fully functioning network.

* Audiovisual Equipment and Supplies - The Division shares, stores and maintains many pieces of equipment which staff use routinely, including video monitors, cameras and audiovisual items. This equipment is used extensively by staff in the Division of Occupational and Environmental Health although mostly purchased by the Right to Know and PEOSH Programs. Replacing this equipment would be cost prohibitive and there are no funds in the DOEH FY 92 budget for this purpose.

* Library/Information Resources - The Division is the primary source of information on occupational and environmental health in the Department. The Division receives numerous demands from health professionals and the public for this information. Library resources include books and scientific journals that are not available from the State Library. Division staff depend heavily on the resources of this library, which was mostly purchased with Right to Know and PEOSH moneys, to perform their responsibilities. The DOEH will not have the funds in FY 92 to replace the library resources if the RTK Program leaves the Department of Health and takes these resources which are essential for the operation of the other programs.

* Effect on the PEOSH Program - The PEOSH Program cannot operate efficiently or effectively without the computer network currently in place. Without the network, the PEOSH Program would not be able to continue tracking complaints and referrals received, as well as program activities. If the programs were physically separated, PEOSH industrial hygienists would not be able to use the RTK Program's research files to determine the toxicological effects of exposure to hazardous substances. The work of the two programs is enhanced now by joint inspections, joint educational activities, sharing of records and files, and interactions among the staff.

* Impact on the Occupational Surveillance Program - The Occupational Surveillance Program cannot operate without the computer network currently in place. The Program would not be able to maintain, update, and analyze its occupational illness and injury registers which currently reside on the network. Audiovisual equipment and supplies owned by the RTK Program are used extensively by the Occupational Surveillance Program and education and training would be seriously curtailed. The Occupational Surveillance Program will be unable to respond to questions from the public or to complete technical analyses of occupational hazards. The Occupational Surveillance Program will also lose its ability to research and analyze the hazards of chemical agents thoroughly and on a timely basis because of the loss of the

RTK Program's Hazardous Substance Fact Sheet files on over a thousand hazardous substances.

Recommendation:

The Right to Know Programs should be maintained in their respective departments. It is inappropriate to move programs that are incompatible with a department's missions and goals into that department, which would occur if preventive workplace health activities in the public sector were moved into DEP. Issues that are of mutual concern in implementation of the Right to Know Act are addressed in Right to Know Interagency Task Force meetings which have been held on a regular basis by the Departments of Health, Environmental Protection and Labor since 1984.

One reason that has been advanced to support consolidation of the Right to Know Programs has been that the private sector is regulated by both DOH (for labeling) and DEP (for Community Right to Know Surveys). This means that even though each agency regulates different requirements, a private employer may be inspected by both agencies. This problem can be rectified by DEP and DOH entering into an interagency agreement to conduct joint inspections of private workplaces so that there would be only one inspector who would inspect for compliance with both labeling and the survey.

CWA 1034 POSITION PAPER
on
Recommendations 23 and 24 of "Making Government Smaller:
Consolidation and Downsizing Proposals"
Governor Jim Florio
January 30, 1991

CWA 1034 represents employees in the N.J. Departments of Health, Labor and Environmental Protection. It is the position of CWA 1034 that the proposals to remove the Right to Know (RTK) and Public Employee Occupational Safety and Health (PEOSH) Programs from the Department of Health's Division of Occupational and Environmental Health (DOEH) should not be carried out, for the following reasons:

1) The Occupational Health Service (OHS) within the Health Department's DOEH plays an important and successful role in providing unified occupational health services to workers and the labor movement. Over the past five years the OHS has earned a reputation among working people as a reliable place to turn for information and advice on occupational health problems of all types. Removal of the RTK and PEOSH Programs will place occupational health services in three different departments. This is not consolidation, but dispersal. It will be difficult for working people to effectively utilize these dispersed programs. It will be a major undertaking to rewrite OHS educational materials based on the current organizational structure and notify working people of the changes.

2) Occupational health services are public health functions and belong in the Department of Health. The staffs of PEOSH and RTK consult regularly with and rely upon medical and epidemiological professionals in the Surveillance and Occupational Medicine Programs of the OHS. The proposals will lessen these opportunities and weaken the public health focus of the PEOSH and RTK Programs.

3) Conversely, the Surveillance and Occupational Medicine Programs of the OHS will suffer from the loss of the PEOSH and RTK Programs. They currently share such resources as an occupational health library, educational materials and order forms, industrial hygiene sampling equipment, and a computer network. These cannot be divided up without diminishing their usefulness.

4) Proposal 23 to remove PEOSH from the Department of Health is inconsistent with a September 1990 review of PEOSH by the N.J. Dept. of the Treasury, Office of Management and Budget, Monitoring Operations. This report found that "the program is meeting its mandate to provide employees with a safe and healthy workplace. The Departments perform their activities, based on their specific regulatory concerns, largely without any overlapping of their individual activities."

5) Finally, removal of the RTK and PEOSH Programs from the OHS will severely demoralize staff, not only in these Programs, but also the remaining Surveillance and Occupational Medicine Programs. The proposals are perceived by staff as unappreciative of their previous effort and insensitive to their needs. Many professional staff are highly employable in the private sector; they work for these Programs because they believe in them. Enactment of these proposals may convince them that the present administration does not believe in these Programs.

Administration to defend transfer of programs from Health Department

March 26, 1991 NSL

By DONALD WARSHAW

Florio administration officials will be asked today to justify proposals by the Governor to strip the state Department of Health of key programs protecting environmental and occupational health.

The Health Department's Right To Know Advisory Council has invited the commissioners of health, labor, and environmental protection to a session at the War Memorial Building in Trenton, seeking the rationale for two changes recommended by Gov. Jim Florio on Jan. 30.

The proposals are aimed at improving efficiency and ending overlapping of services by consolidating, in one department, programs that are now handled by other departments. They have raised a storm of protest, however, both from within

and outside state government.

Listed as Governor's Proposals 23 and 24, they project a transfer from the Health Department of its responsibility for enforcing the state's public employee occupational health and safety statute to the Labor Department. They also call for a shift of the Health Department's lead role for implementing New Jersey's worker and community right-to-know program to the Department of Environmental Protection.

Opponents of the changes maintain the recommendations will effectively dismantle innovative, nationally recognized state Health Department programs to protect community health and the health and safety of public- and private-sector workers.

Brend Bacon, chief of management and planning in the Florio administration, said like all of the Gov-

Consolidation would increase roles of Department of Labor and DEP

ernor's recommendations, "they are not final."

"We've had a lot of comment saying these are model programs in the Health Department, recognized nationally, and, if anything, consolidation should be within the Health Department," she said.

Bacon said a "task force" is studying the recommendations and will report back in two weeks on "whether to modify, move forward or abandon them."

"We're still committed to the goal of downsizing and delivering services

better," Bacon emphasized.

Critics assert that rather than realizing any major savings and greater efficiency, the changes could jeopardize several millions of dollars in federal funding and programs that have achieved a national reputation for excellence.

Both the Health Department's occupational health surveillance advisory group and the state Right to Know Advisory Council, based in the Health Department, have come out strongly in opposition to the recommendations.

The surveillance advisory group,

composed of corporate, academic, medical, environmental and industrial health professionals, as well as union health and safety specialists, unanimously urged Florio to withdraw both proposals.

"This program is best managed by the Department of Health where workers can be counseled and trained on how to protect themselves," said Gastone Bello, a member of the right to know council and a senior vice president at Ciba-Geigy.

"I think the first priority is to make sure that it (the right to know program) works in line with what the law has said. This is very important," the Ciba-Geigy executive emphasized.

Smith also questioned why state Health Commissioner Dr. Frances Dunston has not taken a stand opposing the recommendations.

Bacon said Dunston, while not openly opposing the recommendations, has stressed that the programs within the Health Department have gained "national recognition."

Assistant Health Commissioner Rebecca Zaganiski alerted Dunston to the negative aspects of the Governor's proposals early in February.

"This impact will be felt particularly by minorities and the working poor, who are overrepresented in the groups at greatest risk for hazardous exposures in workplaces and communities," Zaganiski said.

The transfers, moreover, could end up costing New Jersey more than \$3 million in federally funded cooperative agreements "to investigate numerous health hazards in workplaces and communities," the assistant commissioner said.