



in unexpended reserves due to this provision in the budget.

LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at page 58:

SB 527 (Davis), as amended May 20, extends until January 1, 1997, section 411.35 of the Code of Civil Procedure, which requires the plaintiff's attorney, in specified actions for indemnity or damages arising out of the professional negligence of a person licensed as a professional architect, engineer, or land surveyor, to attempt to obtain consultation with at least one professional architect, engineer, or land surveyor who is not a party to the action and file a certificate which declares why the consultation was not obtained or that on the basis of the consultation, the attorney believes there is reasonable and meritorious cause for filing the action. This bill was signed by the Governor on July 29 (Chapter 272, Statutes of 1991).

AB 766 (Frazee), as amended June 28, among other things, provides that the body of law regulating the practice of architecture may be cited as the Architects Practice Act; officially changes the name of the California State Board of Architectural Examiners to the California Board of Architectural Examiners; and deletes the requirement that examination questions regarding exterior and interior barrier-free design be reviewed by an ad hoc advisory committee of disabled persons appointed by the Department of Rehabilitation. This bill was signed by the Governor on October 5 (Chapter 566, Statutes of 1991).

RECENT MEETINGS:

At BAE's September 30 meeting, the Examination Committee reported on its review of the Board's design appeal process. Staff explained that when a person fails NCARB's design examination, he/she may appeal directly to BAE under specified circumstances. It is possible for an applicant to pass the design test on appeal; however, this does not mean that the applicant is NCARB-certified. Further, he/she has no reciprocity privileges because other states do not accept these changed scores when certifying a transferring California architect.

Also in September, the Enforcement Committee presented a report on the Board's disciplinary statistics for fiscal year 1990-91. During that year, BAE received 336 inquiries, opened 194 complaints, closed 180 complaints, referred 18 to the Department of Consumer Affairs' Division of Investigation, and forwarded 3 accusations to the Attorney

General's Office. The Board revoked 2 licenses and issued warnings to 4 others.

FUTURE MEETINGS:

January 27 in San Luis Obispo.

ATHLETIC COMMISSION

Executive Officer: Vacant
(916) 920-7300

The Athletic Commission is empowered to regulate amateur and professional boxing and contact karate under the Boxing Act (Business and Professions Code section 18600 *et seq.*). The Commission's regulations are found in Division 2, Title 4 of the California Code of Regulations (CCR). The Commission consists of eight members each serving four-year terms. All eight members are "public" as opposed to industry representatives. The current Commission members are Willie Buchanon, William Eastman, Ara Hairabedian, Bill Malkasian, Jerry Nathanson, Carlos Palomino, Thomas Thaxter, M.D., and Robert Wilson.

The Commission has sweeping powers to license and discipline those within its jurisdiction. The Commission licenses promoters, booking agents, matchmakers, referees, judges, managers, boxers, and martial arts competitors. The Commission places primary emphasis on boxing, where regulation extends beyond licensing and includes the establishment of equipment, weight, and medical requirements. Further, the Commission's power to regulate boxing extends to the separate approval of each contest to preclude mismatches. Commission inspectors attend all professional boxing contests.

The Commission's goals are to ensure the health, safety, and welfare of boxers, and the integrity of the sport of boxing in the interest of the general public and the participating athletes.

MAJOR PROJECTS:

Commission Continues Search for New Executive Officer. Following Executive Officer Ken Gray's resignation in July, the Commission has conducted an extensive search to fill the vacancy. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 59 and Vol. 11, No. 2 (Spring 1991) p. 55 for background information.) Although the Commission planned to interview candidates and make its decision at its July 19 meeting, it instead scheduled a meeting in September to address this issue, on the condition that the five finalists then under consideration be included. On September 20, the Commission decided to devote its entire October 18 meeting to interviewing finalists and se-

lecting a new Executive Officer. At this writing, thirteen applicants are being considered for the position.

Regulatory Changes. On March 15, the Commission adopted new section 288 and amendments to section 282, Title 4 of the CCR, regarding vision requirements and ringside physicians, respectively. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 59 and Vol. 11, No. 2 (Spring 1991) p. 55 for background information.) According to Commission staff, the rulemaking file on these proposed regulatory changes was forwarded to the Office of Administrative Law for review and approval on September 27.

The Commission has proposed an amendment to section 312 of its regulations, regarding technical requirements for ringside ropes; the proposed amendment would increase the number of ring ropes from three to four and specify that the fourth rope shall be 54 inches above the ring floor. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 59 for background information.) A public hearing on this proposed amendment was scheduled for November 15.

At its July 19 meeting, the Commission decided to draft an amendment to section 401 of its regulations, regarding the professional boxers' pension plan. Currently, the regulation requires that a licensed professional boxer's contributions to the pension plan shall begin once the boxer's total purse exceeds \$1,500 per calendar year from fights in California. The proposed amendment would provide that a boxer's contributions shall begin once the boxer's total purse exceeds \$5,000 per calendar year. According to the Commission, the considerable staff time spent reviewing show reports to determine those boxers required to contribute to the plan justifies this amendment. The proposed amendment was scheduled to be discussed at a November 15 public hearing.

Also on November 15, the Commission will conduct a public hearing on its proposed amendment to regulatory section 345, which currently provides that in cases where a boxer receives a cut eye from a fair blow or an intentional butt or any other injury which the referee believes may incapacitate the boxer, the referee shall call into the ring the club physician for examination of the boxer. The proposed amendment would specify that a mandatory time-out shall be called whenever the ringside physician examines a boxer.

At the September 20 meeting, Commission staff recommended a proposed rule change to section 352, Title 4 of the CCR, which currently requires that a boxer who has been knocked out be



placed on the ill and unavailable list for no less than thirty days; current Commission policy requires a mandatory suspension of no less than 45 days, with no exceptions. Both the mandatory suspension rule and policy were questioned after a recent boxing match; thus, Commission staff proposed amendments to section 352 which would allow the Commission to waive the mandatory suspension period following a knockout to not less than fourteen days in situations involving extraordinary circumstances and where the boxer is not injured, as determined by a physician and neurosurgeon approved by the Commission. Commissioner Palomino noted the possible dangers of amending section 352, considering the goal of the Commission to look after boxers' safety. After discussing the proposed language, the Commission decided not to pursue the amendments.

Commission's Administration of Boxers' Pension Plan Criticized by the Auditor General. The Office of the Auditor General (OAG) recently issued a report summarizing its extensive audit of the professional boxers' pension plan. The Auditor General was critical of the Commission's implementation of the pension program, finding that the Commission did not always collect pension contributions when it should have; did not ensure that deposits to its money market account were complete; did not ensure that deposits to its money market account were promptly made; did not ensure that adequate accounting records were kept; did not review its investments; and did not review the accuracy of the information entered into the plan's database. (See *supra* agency report on OAG for a more detailed summary of this audit.)

In a letter responding to the Auditor General, Assistant Chief Athletic Inspector Rob Lynch noted that the Commission is working to implement many of the changes suggested in the report. In addition, Commission staff noted that the Department of General Services is beginning to phase out its involvement with the pension plan due to staff reductions and budget considerations. Commission staff has met with DGS' Office of Risk and Insurance Management on this issue and is looking into retaining the services of a new brokerage firm.

DCA Study of Neurological Examination. At its May 17 meeting, the Commission agreed to allow its controversial neurological exam program to be evaluated by the Department of Consumer Affairs' Central Testing Unit. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 60 and Vol. 11, No. 2 (Spring

1991) p. 55 for background information.) At this writing, the evaluation has not been completed.

New Commissioners Appointed. In July, Governor Pete Wilson appointed three new members to the Commission to replace departing Commissioners Charles Westlund, P.B. Montemayor, and Raoul Silva. The new Commissioners are former world welterweight champion Carlos Palomino, former professional football player Willie Buchanon, and Pleasanton Chief of Police William Eastman.

LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at page 59:

AB 649 (Floyd), as amended April 15, would provide that participation in the existing pension plan for professional boxers who engage in boxing contests in California is voluntary instead of mandatory; this bill is pending in the Senate Business and Professions Committee.

AB 647 (Floyd), as amended April 15, would, among other things, delete existing licensure requirements for ring announcers and delete the Commission's authority to license doormen, ushers, and booking agents. This bill is pending in the Senate Business and Professions Committee.

AB 648 (Moore), as amended June 4, proposes to make various revisions to existing law regarding the neurological examinations required by the Commission, including deleting existing law which provides that the cost of required neurological examinations shall be paid from assessments on promoters of professional boxing matches in California and deleting the existing authority for the Boxers' Neurological Examination Account in the General Fund. This bill is pending in the Senate Business and Professions Committee.

AB 672 (Polanco), as introduced February 21, would, among other things, require any Commission representative to be admitted to any place where a telecast of any current, live, or spontaneous contest or exhibition is shown or exhibited or to be shown or exhibited, and make it a misdemeanor for any person to sell, lease, distribute, or make available to any other person or organization who does not possess a permit issued by the Commission, the broadcasting or television rights to any contest or match, regardless of locale, for showing, viewing, or exhibition of a closed-circuit telecast. This bill is still pending in the Assembly Governmental Organization Committee.

AB 699 (Polanco), as amended April 23, is a Commission-sponsored bill that would, among other things, authorize the Commission to order a boxer or martial arts fighter to take a chemical test before or after a contest for the detection of substances which are prohibited under rules adopted by the Commission. This bill would also provide that 50% of the cost of the first neurological examination administered for a boxer each year shall be paid by professional boxers and their managers and give the Commission discretion to require the assessments to be made at the time of application for licensure, at the time of the approval of a contest, or to be withheld from gross receipts or the boxer's purse. This bill is still pending in the Assembly Governmental Organization Committee.

AB 2133 (Polanco), as amended April 23, would define a booking agent to mean any person who books a licensed professional boxer or martial arts fighter to fight in a contest inside or outside of California; it would not include a licensed manager who books fights for a boxer or martial arts fighter pursuant to a boxer-manager contract approved by the Commission. This bill is pending in the Assembly Governmental Organization Committee.

RECENT MEETINGS:

At its July 19 meeting, the Commission elected Ara Hairabedian as its new Chair and Bill Malkasian as Vice-Chair.

At its September 20 meeting, the World Professional Kickboxing Association requested sanctioning authority from the Commission. However, the Commission declined to take any action on this issue, referring it to Commission staff for further review.

At the request of the Southern California Managers and Coaches Boxing Association, the Commission also discussed the possibility of changing the licensing procedure to allow boxers to take the neurological exam before undergoing the rest of the licensing procedure in order to avoid unnecessary costs to the applicant should he fail the neurological exam. After discussing the reasons for the existing policy, the impact on funding for the examination, and the possible impact of pending legislation, the Commission referred the issue to staff for further review.

The Commission discussed the use of a gym sparring report developed by Commission staff. The sparring report is intended to ensure that professional boxers spar only with appropriately licensed persons and that all injuries are properly reported. The Commission



agreed to adopt the use of the sparring report as Commission policy, so long as a penalty for perjury clause was added to the report.

FUTURE MEETINGS:

December 13 in Los Angeles.

BUREAU OF AUTOMOTIVE REPAIR

Chief: James Schoning
(916) 366-5100

Toll Free Complaint Number:
1-800-952-5210

Established in 1971 by the Automotive Repair Act (Business and Professions Code sections 9880 *et seq.*), the Department of Consumer Affairs' (DCA) Bureau of Automotive Repair (BAR) registers automotive repair facilities; official smog, brake and lamp stations; and official installers/inspectors at those stations. The Bureau's regulations are located in Division 33, Title 16 of the California Code of Regulations (CCR). The Bureau's other duties include complaint mediation, routine regulatory compliance monitoring, investigating suspected wrongdoing by auto repair dealers, oversight of ignition interlock devices, and the overall administration of the California Smog Check Program.

The Smog Check Program was created in 1982 in Health and Safety Code section 44000 *et seq.* The Program provides for mandatory biennial emissions testing of motor vehicles in federally designated urban nonattainment areas, and districts bordering a nonattainment area which request inclusion in the Program. BAR licenses approximately 16,000 smog check mechanics who will check the emissions systems of an estimated eight million vehicles this year. Testing and repair of emissions systems is conducted only by stations licensed by BAR.

Approximately 80,000 individuals and facilities—including 40,000 auto repair dealers—are registered with the Bureau. Registration revenues support an annual Bureau budget of nearly \$34 million. BAR employs approximately 600 staff members to oversee the Automotive Repair Program and the Vehicle Inspection Program.

Under the direction of Chief James Schoning, the Bureau is assisted by a nine-member Advisory Board which consists of five public and four industry representatives. The terms of three of the Advisory Board members—Herschel Burke, Vincent Maita, and

Alden Oberjuerge—expired in June; they will remain on the Board until replacements are appointed. The remaining Advisory Board members are William Kludjian, Jack Thomas, Carl Hughett, Joe Kellejian, Louis Kemp, and Gilbert Rodriguez.

MAJOR PROJECTS:

Executive Vacancies Filled. On July 29, BAR Chief Jim Schoning announced the appointments of Keith Smith as Chief of the Bureau's Field Operations Division and Wendy Wohl-Shoemaker as Chief of BAR's Administrative and Technical Services Division. Smith, who assumed his duties on August 19, previously served as Assistant Division Chief for Field Operations with the California Department of Motor Vehicles. Wohl-Shoemaker, who has worked at BAR for over ten years and was responsible for overseeing BAR's quality assurance and referee functions, assumed her new responsibilities on August 5.

In addition, Schoning announced that Larry Sherwood would fill the newly-created position of Assistant Chief of Field Operations. Sherwood, who previously served as the manager of BAR's Engineering Branch and was the lead designer of the BAR-90 analyzer, began his new job on August 5.

Clean Air Act Update. In April, the U.S. Environmental Protection Agency (EPA) issued its "Draft Guidance Document" for smog check programs nationwide. The document describes two types of smog check programs: basic and enhanced; the type of program necessary for a given metropolitan area depends upon EPA classifications involving population growth, topography, and other factors. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 60 for background information.) The EPA was expected to release the final version of the guidance document in June; however, the document will not be released until January 1992.

Interim Hearings to be Held. Senator Robert Presley has scheduled interim legislative hearings on the future of the state's inspection and maintenance program—including the Smog Check Program—for December 16-18 in Sacramento. The hearings will address the controversy between the federal government's inspection program recommendations and the state's current inspection program. The issues of centralization, the proposed certification of technicians and equipment to handle air-conditioning refrigerants, and the proposed increase in the repair costs ceiling are at the center of the conflict. Proposals by Los Angeles District At-

torney Ira Reiner, concerning plans to reduce or eliminate tampering with automobile pollution control devices, will also be considered at the hearings. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 60 and Vol. 11, No. 2 (Spring 1991) p. 58 for background information.)

Regulatory Amendments Sought.

On October 15 in El Monte and October 21 in Sacramento, BAR was scheduled to hold public hearings regarding its proposed amendments to sections 3340.35 and 3340.50.4, Division 33, Title 16 of the CCR. Health and Safety Code section 44060 authorizes BAR to charge a fee of not more than \$7 for Smog Check Program certificates of noncompliance and compliance. The proposed amendment to section 3340.35 would raise the fee paid by licensed Smog Check stations for the certificates from \$6 to \$7. The proposed amendments to section 3340.50.4 would establish the same fee for certificates purchased by licensed fleet facilities participating in the Smog Check Program. Both amendments have a proposed effective date of January 1, 1992.

In other regulatory action, the Office of Administrative Law (OAL) has approved BAR's adoption of new section 3356.1 and amendments to sections 3303.2, 3305, 3356, and 3362.1, Title 16 of the CCR. These regulatory changes modify performance standards for lamp and brake stations and prohibit separate billing for nonitemized shop supplies or miscellaneous parts. OAL had previously disapproved these regulatory amendments, finding that they did not comply with the necessity, clarity, and consistency standards of Government Code section 11349.1. BAR amended the proposed action to comply with OAL's findings, and OAL approved the amendments on August 21.

On September 22, BAR submitted new sections 3340.22.2 and 3364, along with amendments to sections 3309, 3316, 3321, 3340.15, 3340.16, and 3340.16.4, Division 33, Title 16 of the CCR, to OAL for approval. The amendments would effect sign requirements for smog inspection stations, validity periods for certificates of adjustment, and equipment requirements for Smog Check stations. The new sections would specify sign requirements at Smog Check stations and prohibit automobile repair dealers from defacing labels which identify a vehicle's emission control requirements. Proposed amendments to sections 3306, 3340.10, 3340.42, and 3340.42.1 were dropped by BAR. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 61 for background information.)