



At a March 28 workshop, the Board delegated completion of its section 27 reporting requirements to Executive Officer Ray Giunta. Giunta reported that after the Board closed in December, volunteers administered licensing examinations and answered consumer inquiries; in March, the Board returned to full operation with temporary staff.

Also at its March meeting, the Board approved the March 31 status report prepared by Giunta, as required by the section 27 agreement. Among other things, the report states that "former staff members were purposely hiding complaints under their desk to underreport the pending counts of open complaints" and that staff "discovered files with unopened, and unanswered mail addressed to the Executive Officer under a former employee's work station." As of March 31, the Board had a backlog of 98 open, pending complaints—16 are at least one year old, 20 are at least eight months old, 30 are at least six months old, 29 are at least three months old, and the remaining three are under two months old. The report also states that the Board has not had an inspector to perform inspections and investigations since its last inspector retired in 1992; however, Giunta initiated twelve inspections since he was hired in April 1994, several of which have been referred for disciplinary action of some sort.

The Board also met its April 17 deadline to submit a report discussing the feasibility of third-party administration of the conservatorships currently under the control of the Board and the necessity of seeking court approval for such action. Under existing law, the Board is authorized to take control of a cemetery where it has reason to believe, or based on its investigation believes, that there has been damage to the endowment care fund or where damage to the fund is likely to occur if the Board does not act immediately; once this type of action is taken by the Board, the law requires the Board to file a petition in the superior court where the property is located for placement of the property under conservatorship with the Board. In drafting the report, a Board consultant contacted several private cemeterians, financial institutions, and government agencies to determine whether they would be interested in providing daily oversight and asset management of cemeteries in conservatorship. The private cemeterians expressed interest in taking over these activities at active cemeteries (based on a case-by-case evaluation for profitability), but stated no interest in these functions at inactive cemeteries. The financial institutions contacted expressed interest in asset management on

portfolios in excess of \$1.1 million, in order to meet their annual fee requirements. No government agencies expressed interest in daily oversight; other agencies which must conserve insolvent institutions (such as the Department of Insurance) contract out daily management functions by appointment or the bid process. No one expressed interest in taking over either daily oversight or asset management functions on the seven cemetery properties currently under Board conservatorship.

The Board also drafted a May 10 preliminary report on the proposed merger with BFDE, as envisioned in AB 597 (Speier) (see LEGISLATION). The draft reveals that the two boards already share common space in the same building and have compatible phone equipment and computer systems, and that savings from eliminating one of the two executive officer positions could be applied to other personnel costs.

Fee Increases Revived. In May 1994, the Board approved proposed regulatory changes which increase virtually all of the fees it charges to the statutory maximums established in Business and Professions Code sections 9750-70. [14:4 CRLR 48] After the Board reopened for business in March, it revived this rulemaking proposal and forwarded it to the Office of Administrative Law in late May, where it is pending at this writing.

LEGISLATION

AB 597 (Speier), as amended May 10, would abolish the Cemetery Board and BFDE, create the eleven-member Board of Funeral and Cemetery Services (BFCS), and transfer all power, authorities, and funds previously vested with the Cemetery Board and BFDE to BFCS. BFCS would have one public member appointed by the Speaker of the Assembly, one public member appointed by the Senate Rules Committee, and five public members, two cemetery licensees, and two funeral director or embalmer licensees appointed by the Governor. No BFCS member would be allowed to hold both a cemetery license and a funeral license.

AB 597 would also specify that the DCA Director may assume the board's powers and duties where an investigation discloses "probable cause" to believe that the conduct of the board constitutes a violation of criminal law and the Director believes the board is unable to perform its regulatory duties due to a conflict of interest, neglect, or dishonorable or unprofessional conduct; expand the existing statute of limitations on the merged board's filing of an accusation against a licensee from

two years to three years from the performance of an unlawful act; and establish a higher duty of care to the consumer by making "negligence" instead of "gross negligence" the basis for board disciplinary action against a licensee. The bill would also remove an existing statutory cap on fines assessed for multiple violations of the merged board's enabling act. [A. Appr]

RECENT MEETINGS

At its March 28 workshop, the Board voted unanimously to initiate rulemaking to require minimum building standards in the construction of mausoleums.

At the Board's March 29 meeting, the Board reaffirmed its opposition to merger with BFDE by a 4-2 vote; public members Jane Emerson and Jeff Wallack voted not to oppose the merger (see MAJOR PROJECTS and LEGISLATION).

FUTURE MEETINGS

July 18 in Sacramento.

September 25 in Sacramento.

CONTRACTORS STATE LICENSE BOARD

Registrar: Gail W. Jesswein

(916) 255-3900

Toll-Free Information Number:

1-800-321-2752

The Contractors State License Board (CSLB) licenses contractors to work in California, handles consumer complaints, and enforces existing laws pertaining to contractors. The Board is authorized pursuant to the Contractors State License Law (CSLL), Business and Professions Code section 7000 *et seq.*; CSLB's regulations are codified in Division 8, Title 16 of the California Code of Regulations (CCR).

The thirteen-member Board—consisting of seven public members, two B-general building contractors, two C-specialty contractors, one A-general engineering contractor, and one member from a labor organization representing building trades—generally meets four times per year. The Board currently has five committees: administration/public information, enforcement, licensing, legislation, and executive.

On March 6, Governor Wilson appointed Timothy Strader to CSLB for a three-year term running until March 1988. Strader, 56, is an attorney from Corona Del Mar, and has worked as in-house counsel for the Koll Company; Strader was also a principal with the Legacy Development Group, a real estate development company



located in southern California. Strader's appointment is subject to Senate confirmation.

MAJOR PROJECTS

CSLB Acts on Flood Disaster. CSLB is taking steps to avoid consumer fraud resulting from the January floods in northern California. Among other things, the Board held "town hall meetings" for flood victims in the Sacramento, Napa, and Sebastopol areas, explaining the potential for fraud by unlicensed contractors. CSLB also arranged with several area television stations to broadcast consumer awareness advertisements. The Board continues to monitor the area and inform consumers by providing flood disaster fliers with the Board's toll-free disaster number (800-962-1125). CSLB also plans to arrange sting operations in the area in order to discourage unlicensed persons from soliciting contracting work.

Legislation Seeks to Limit Contractor Disclosure. AB 3001 (Conroy) (Chapter 783, Statutes of 1994) requires a home improvement contractor to disclose disciplinary actions and/or judgments to customers if the contractor has had two or more disciplinary actions within a ten-year period; the disclosure must be provided in a written document prior to entering into a contract to perform work on residential property, and the Board's toll-free complaint hotline number must be included in the contract, as well as information on the hazards of dealing with unlicensed contractors. [14:4 CRLR 50] At its October meeting, CSLB heard strong opposition to the passage of AB 3001 from contractors such as Bob Harder of the North Coast Builders Exchange, who claimed that the ten-year tracking period is too long a period given the minor nature of some violations. However, Ann Armstrong of the Contractors Referral Network contended that AB 3001 was enacted with consumer protection in mind. [15:1 CRLR 50]

In direct contrast to AB 3001, SB 112 (Hurt) seeks to limit the availability of disciplinary information on contractors. SB 112 would provide that records of all citations, penalties, or any form of disciplinary action against a contractor are not subject to disclosure if the contractor has held a valid license for five continuous years and has not been disciplined during that five-year period (see LEGISLATION). CSLB supports SB 112, provided the bill is amended to state that a contractor's disciplinary record is not subject to disclosure provided the contractor is "active and in good standing" with CSLB over the five-year period. CSLB views SB 112 as

a means to clarify the disclosure requirements in AB 3001; however, the bill may eventually be influenced by Governor Wilson's call for greater consumer protection against incompetent contractors. [14:4 CRLR 49; 14:2&3 CRLR 48]

CSLB Response Center Handles Earthquake-Related Complaints. At the Board's January 20 meeting, staff reported that since December 31, CSLB's new Earthquake Response Center had opened 601 complaints and closed approximately 68 cases; 15-25% of the complaints have resulted in legal actions. CSLB opened the Center in Van Nuys to handle the tremendous increase in the number of complaints concerning repair efforts following the January 1994 Northridge earthquake. [15:1 CRLR 49; 14:4 CRLR 48-49; 14:2&3 CRLR 48] CSLB staff noted that a substantial amount of money is being made available for earthquake rebuilding, creating tremendous potential for fraud; because only one-half of the rebuilding efforts have commenced, the Center may be needed for a considerable time.

Outreach Campaign Begins. At CSLB's January 20 meeting, the Board's Outreach Campaign began with CSLB's approval of six television advertisements and decision to participate in the Info/California Kiosk computer project. The Outreach Campaign seeks to raise the level of consumer awareness concerning the hiring of licensed contractors, as well as increasing contractor awareness of the requirements governing their profession. [15:1 CRLR 49; 14:4 CRLR 49] The television advertisements will be aired throughout California over the next year. The Info/California Kiosk project is a touch-screen computer terminal established at public locations such as shopping malls and post offices. The system is directly connected to government agencies, allowing consumers to access CSLB for material on how to hire a contractor, how to obtain a license, how to maintain a license, how to order forms, and how to receive consumer information on the licensing and disciplinary records of contractors. The Info/California Kiosk project will cost CSLB a one-time development fee of \$80,000 and an ongoing cost of \$45,000 per year.

CSLB Enforcement Update. At this writing, CSLB's enforcement action against Gotech Builders is set for hearing before an administrative law judge on May 23-25. In June 1994, at the request of CSLB, the Attorney General's Office filed an accusation against Gotech Builders, its predecessor company Systems Construction, Gotech owner Jeffrey Charles Weiner, Ilene Gayron (formally Ilene Weiner), and others. [15:1 CRLR 49;

14:4 CRLR 49] According to the accusation, Gotech illegally diverted \$961,000 from its clients and subcontractors over a four-year period. In March, the defendants filed a general denial of all accusations. Also in March, Gotech's owner Jeffrey Weiner filled for bankruptcy and received discharge of individual liability for all corporate debts from the bankruptcy court. According to Deputy Attorney General Anne Mendoza, the bankruptcy judgment means that Gotech's defrauded clients will most likely never see their money again; Mendoza plans to concentrate on the assets of Ilene Gayron, Gotech's alleged former manager, to compensate victims should CSLB prevail in the action.

Rulemaking Update. On January 30, the Office of Administrative Law (OAL) approved CSLB's adoption of new section 832.28, Title 16 of the CCR, which creates and defines a new specialty license and classification for class C-28 lock and security equipment contractors. [15:1 CRLR 49; 14:4 CRLR 49; 14:2&3 CRLR 48]

On May 17, OAL approved CSLB's changes to section 832.07, Title 16 of the CCR, which prohibit low-voltage system contractors (C-7) from installing low-voltage alarm systems. [15:1 CRLR 49; 14:4 CRLR 49; 14:2&3 CRLR 48]

LEGISLATION

SB 112 (Hurt), as amended May 9, would provide that records of a citation, civil penalty, or other form of discipline against a person licensed under the CSLB are not subject to disclosure if the person has had no citations, civil penalties, or other form of discipline for the previous five years, if the person held a current, active license during the entire five-year period. [A. CPGE&ED]

AB 560 (Morrissey). Existing law authorizes certain entities regulated by the Public Utilities Commission to perform and conduct certain work which would otherwise require licensure under the CSLB. As amended May 2, this bill would authorize the performance of additional work by a gas, heat, or electric corporation otherwise requiring a contractor's license, if (1) the entity is properly licensed, (2) the work is related to energy equipment, appliances, and associated distribution systems, and (3) the ratepayers do not bear any cost. A gas utility would be required to contract with licensed independent trade members for a significant proportion of services performed. [A. CPGE&ED]

AB 1567 (Thompson). Under existing law, as a condition to the issuance, reinstatement, reactivation, or renewal of a license, CSLB must require the licensee to maintain a contractor's bond. Existing law



REGULATORY AGENCY ACTION

also requires a contractor that has previously been found to have failed to pay an unsatisfied final judgment to file a judgment bond to guarantee payment of the final judgment. As introduced February 24, this bill would revise and recast these provisions.

Existing law provides for the cancellation of an individual contractor's license upon the death of the licensee, but provides that an immediate family member is entitled to continue the business for a temporary period upon request. Existing law contains other provisions governing the effect of the death of a licensee. This bill would revise and recast those provisions. Among other things, it would permit an immediate family member to request authority to continue the business for a reasonable time.

Existing law provides for the suspension of a contractor's license if a licensee fails to comply with an arbitration award or failure to pay a civil penalty, but permits reinstatement within one year of the suspension. This bill would authorize reinstatement within 180 days of the date of suspension. [A. CPGE&ED]

AB 1377 (Thompson). The CSLL exempts from its application public utilities operating under regulation of the State Railroad Commission on construction, maintenance, and development work incidental to their own businesses. As introduced February 24, this bill would delete the obsolete reference to the State Railroad Commission and instead refer to the Public Utilities Commission. [A. CPGE&ED]

AB 1915 (V. Brown), as introduced February 24, would require CSLB to develop criteria by which a person may be certified as having the necessary work experience and knowledge of the laws and regulations relating to public works to satisfactorily perform and complete a public works contract, as defined, and would prohibit a contractor from bidding on or performing a public works contract unless the licensee is certified by the Board. [A. CPGE&ED]

SB 432 (Hughes). Existing law provides that a home improvement contract must contain specified information, including information regarding the contractor, work to be done, payment provisions, and disclosure regarding a mechanics' lien. As amended May 11, this bill would provide that the failure to include this information in the home improvement contract renders unenforceable any security interest in real property taken by a contractor for the performance of home improvement services. [A. CPGE&ED]

SB 1052 (Solis), as amended May 2, would provide that upon presenting appropriate credentials to a contractor, the Registrar of Contractors and his/her representative shall have free access to a place where a contractor conducts business during regular working hours, and at other reasonable times when necessary for the enforcement of the provisions of the CSLL to prohibit all forms of unlicensed activity; provide that the Registrar and his/her agents may obtain statistics, information, or physical materials in the possession of the contractor that are directly related to the investigation; authorize the Registrar to obtain an inspection warrant under specified circumstances; and provide that if the Registrar or his/her agent is conducting an investigation pursuant to an inspection warrant, statistics, information, or physical material relating to matters not specified in the warrant that are found in connection with the investigation may not be used in any action as evidence against that contractor unless that evidence was obtained through an independent source or inevitably would have been discovered without the inspection warrant. [S. Floor]

SB 258 (O'Connell). Existing law does not regulate persons who perform home inspections for a fee. As amended May 11, this bill would define terms related to paid home inspections, establish a standard of care for home inspectors, and prohibit certain inspections in which the inspector or the inspector's employer, as specified, has a financial interest. The bill would also provide that contractual provisions seeking to limit the liability of home inspectors to the cost of the inspection are contrary to public policy and invalid. The bill would, in addition, identify and limit the persons who may bring an action arising out of a home inspection. [S. Jud]

AB 717 (Ducheny, Hauser). Existing law provides for the establishment and enforcement of state building standards, as specified. Under existing law, these provisions include oversight of matters relating to these standards by state and local entities, including cities, counties, and the State Building Standards Commission. As amended May 9, this bill would establish certification, training, and continuing education requirements for construction inspectors, plans examiners, and building officials who are employed by a local agency in a temporary or permanent capacity. The bill would exempt from its training and certification requirements any person currently and continuously employed by a local agency as a construction inspector, plans examiner, or

building official for not less than two years prior to the effective date of the bill, until that person obtains new employment. The bill would provide that it is not intended to prohibit any local agency from prescribing additional criteria for the certification of construction inspectors, plans examiners, or building officials, and would set forth other powers and duties of the local agency, including the power of the local agency to impose fees to cover the cost of compliance with the bill's provisions. [S. Appr]

LITIGATION

In *Attorney General Opinion No. 94-819*, filed February 9, Attorney General Dan Lungren and Deputy Attorney General Gregory Gonet interpreted Government Code sections 4525(e), 4526, and 4529.5 as prohibiting a state or local agency from contracting with a private construction firm for construction project management services if all or any part of such services are to be performed other than under the direction and control of a licensed architect, contractor, or engineer. The opinion arises out of Senator Milton Marks' request to investigate whether the state may contract with an unlicensed party for construction management services. Government Code section 4526 states that "selection by a state or local agency head for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of services required. In order to implement this method of selection, state agency heads contracting private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall adopt by regulation, and local agency heads contracting private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms may adopt by ordinance, procedures that assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed at fair and reasonable prices to public agencies...." Government Code section 4529.5 states that any individual or firm proposing to provide construction project management services pursuant to Chapter 10 shall provide evidence that the individual or firm and its personnel carrying out onsite responsibilities have expertise and experience in construction project design review and evaluation, construction mobilization and supervision, bid evaluation, project scheduling, cost-bene-



fit analysis, claims review and evaluation, and general management of construction projects. Government Code section 4525(e) defines the term "construction project management" as those services provided by a licensed architect, registered engineer, or licensed general contractor which meet the requirements of section 4529.5 for the management and supervision of work performed on state construction projects.

The Attorney General interpreted Government Code section 4526's requirement that state or local agencies only select architects, contractors, and engineers who meet regulated procedures that assure these services are engaged on the basis of demonstrated competence and qualifications as providing a blanket rule that state or local agencies may only employ license or registered architects, contractors, and engineers. The Attorney General opined that Government Code sections 4525(e) and 4529.5 specifically require state or local agencies to only hire licensed or registered architects, contractors, and engineers for construction management services.

On March 9, CSLB filed its opening brief in its appeal of San Diego County Superior Court Judge J. Richard Haden's ruling in *Home Depot U.S.A. v. Contractors State License Board*, No. 666739 (July 18, 1994). In this matter before the Fourth District Court of Appeal (No. D021809), CSLB seeks reversal of Judge Haden's decision in favor of Home Depot, and his order requiring CSLB to invalidate two citations issued against Home Depot for its advertisement and performance of certain installation services. [14:4 CRLR 13-15; 13:2&3 CRLR 61; 13:1 CRLR 31]

Home Depot began its "we install what we sell" installation program in San Diego County in April 1990; by November 1992, it had performed 50,000 installations and was making \$1.6 million per month in installations. According to the record, Home Depot—which is licensed as a B-general building contractor—enters into installation contracts but hires licensed specialty contractors to perform all installation work: Home Depot screens and qualifies the independent specialty contractors, investigates the installer's license to ensure it is current and proper, and pays the specialty contractors. The complaints which led to the two citations were filed by individuals who own or work for specialty contractor businesses which compete with Home Depot for installations.

Business and Professions Code section 7057 defines a general building contractor as "a contractor whose principal contracting business is in connection with any structure built, being built, or to be built,

for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, requiring in its construction the use of more than two unrelated building trades or crafts, or to do or superintend the whole or any part thereof." To implement section 7057, CSLB adopted section 834(b), Title 16 of the CCR, which provides that a licensee classified as a general building contractor shall not take a prime contract (excluding framing or carpentry) unless it requires at least three unrelated building trades or crafts, or unless he/she holds the required specialty license(s); section 834(b) also states that a general building contractor shall not take a subcontract (excluding framing or carpentry) involving less than three unrelated trades or crafts unless he/she holds the required specialty license(s). CSLB cited Home Depot for its advertisement and performance of work in a single trade or craft without holding a specialty license, in violation of section 834(b).

In contesting the citations, Home Depot argued that nothing in section 7057 precludes a B-general building contractor from accepting a contract in which two or fewer unrelated trades are involved, and that regulatory section 834(b) is thus inconsistent with the statute. Judge Haden agreed, noting that section 7057 "does not describe the contract a general contractor may take. 834(b) has simply added a new and additional restriction on the general building contractor not intended or apparently contemplated by the legislature in B&P section 7057. This additional restriction is not a reasonable interpretation of the legislative mandate." Judge Haden also found that section 834(b) does not square with the public protection mandate of the Contractors State License Law. Because section 7057 permits a general building contractor to "do or superintend the whole or any part thereof," Judge Haden noted that Home Depot could lawfully build an entire house with its B-general building contractor license, and found that "[t]here is no legitimate argument that a general building contractor is unqualified to do any aspect of work in connection with building a support, structure or enclosure." In this regard, Judge Haden opined that section 834(b) "was not adopted to protect the public but rather to restrain competition. It provides a monopoly to special license holders."

In its appellate brief, CSLB argued that Business and Professions Code sections 7057, 7058(a) and (b), and 7059(a) establish three separate construction classifications—the general engineering contractor, the general building contractor, and the specialty contractor—and specifically permit the Board to adopt regulations

(such as section 834) to classify contractors and to limit the field and scope of the operations of a licensed contractor to those in which he or she is classified and qualified to engage. The Board contends that "the clear and unambiguous language of [section 7057] requires that a general building contractor take only construction contracts which require two or more unrelated trades to perform." In response to Judge Haden's finding that the phrase "more than two unrelated building trades" describes the structure involved in the general contractor's principal business, CSLB argued that section 7057 requires that the construction work itself involve the use of more than two unrelated trades; "[t]hus the number of trades involved in the construction work is the deciding factor in the determination of who is a general building contractor" (emphasis original). CSLB commented that Judge Haden's finding demonstrates his lack of appreciation for the classification scheme.

In May, Home Depot was granted an extension of time until May 25 in which to file its responsive brief; at this writing, further calendaring in the case has yet to be set by the Fourth District.

In *In re Bankruptcy of Hammon*, No. 94-1118 (Jan. 31, 1995), the U.S. Bankruptcy Appellate Panel of the Ninth Circuit Court of Appeals held that a cash deposit made with CSLB in satisfaction of bonding requirements under Business and Professions Code section 7071.6 is part of an individual's bankruptcy estate. At the time this action was brought, section 7071.6(a) required that, as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a license, an applicant must file or have on file with CSLB a contractor's bond in the sum of \$5,000. Robert Hammon, a general contractor licensed with CSLB, elected to make a cash deposit of \$5,000, rather than post a bond, to satisfy the requirements of section 7071.6(a). On or about September 9, 1991, Hammon hired a subcontractor, Chris Canzone, to install a sign for one of Hammon's clients. Canzone performed the work, but Hammon never compensated him. Hammon subsequently filed for bankruptcy under Chapter 11.

Canzone sought to establish that cash deposits made under section 7071.6(a) are separate from an individual's bankruptcy estate. The bankruptcy court held that the cash deposit is part of the estate; the court explained that while surety bonds have long been held to not be part of a contractor's estate, a cash deposit is different. Here, Hammon provided his own money to CSLB as a cash deposit; the court found that Hammon continues to not only have a legal



interest but also a residual equitable interest in the cash deposit, which he would not have with a bond. Thus, the court held the cash deposit is part of the bankruptcy estate.

RECENT MEETINGS

At its January 20 and April 20 meetings, CSLB discussed the implications of AB 3302 (Speier) (Chapter 1135, Statutes of 1994). [14:4 CRLR 49-50] Among other things, AB 3302 amends Business and Professions Code section 7091(b) to extend the statute of limitations for CSLB's filing of an accusation for a latent structural defect to ten years; AB 3302 also mandates CSLB to define the term "structural defect" by December 31, 1995. CSLB's Enforcement Committee is proposing that, for the purposes of Business and Professions Code section 7091(b), the term "structural defect" should be defined as a condition in the structure itself which constitutes a hazard to health or safety or which renders the structure not reasonably safe for the use for which it is intended; the term structure should be defined as that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. After hearing criticism of the proposed definition by Bruce Cook of the Institute of Heating and Air Conditioning Industry and Dalton James of the National Association of the Remodeling Industry, regarding the potentially broad application of the definition, several Board members agreed that the language is open-ended and could cover varying types of defects. At this writing, CSLB is continuing to develop a definition of the term.

FUTURE MEETINGS

July 20-21 in Orange County.
October 26 in Ontario.
January 25, 1996 in Los Angeles.
April 24-25, 1996 in Sacramento.
July 24-25, 1996 in Oakland.

COURT REPORTERS BOARD OF CALIFORNIA

Executive Officer: Richard Black
(916) 263-3660

The Court Reporters Board of California (CRB) is authorized pursuant to Business and Professions Code section 8000 *et seq.* The Board's regulations are found in Division 24, Title 16 of the California Code of Regulations (CCR).

CRB licenses and disciplines certified shorthand reporters (CSRs); recognizes

court reporting schools; and administers the Transcript Reimbursement Fund, which provides shorthand reporting services to low-income litigants otherwise unable to afford such services.

The Board consists of five members—three public and two from the industry—who serve four-year terms. The two industry members must have been actively engaged as shorthand reporters in California for at least five years immediately preceding their appointment. The Governor appoints one public member and the two industry members; the Senate Rules Committee and the Speaker of the Assembly each appoint one public member.

MAJOR PROJECTS

CRB Considers "Reform Coalition" Issues. On January 28, CRB held a hearing to receive public comment on a number of controversial issues within the court reporting industry; a request to address these issues was submitted to the Board at its October 1994 meeting by a group calling itself the "Court Reporting Reform Coalition." The Coalition, claiming to represent most local freelance reporting agencies, urged the Board to sponsor legislation entitled "The Court Reporters Reform Act," to address deposition databanking, uncertified transcripts ("dirty ASCIIs"), incentive gift-giving, direct contracting, standardized format of deposition transcripts, ownership of CSR agencies by unlicensed individuals, and the duties of CSRs under California Code of Civil Procedure section 2025. [15:1 CRLR 50-51]

Following CRB's hearing, Senator Dan Boatwright introduced SB 795 (Boatwright), a major bill sponsored by the California Court Reporters Association (CCRA) and supported by the Court Reporting Reform Coalition (*see* LEGISLATION). The bill, which has generated considerable controversy within various factions of the court reporting industry (including the publication of a newsletter entitled *The SB 795 Gazette* by the Reform Coalition), would add several subsections to Business and Professions Code section 8025(c). These subsections would create numerous categories of prohibited conduct by CSRs—including bribes and gift-giving, discrimination in the type or price of services offered, and contracting practices generally known as "direct contracting" in the industry. Additionally, the bill would require CSRs to disclose to all parties and participants to a particular action the nature and price of all reporting and incidental services available in that action, and to further disclose any present or potential conflict of interest on the part of the CSR or his/her principal (including finan-

cial or contractual arrangements existing between the CSR, the CSR's principal, and any party or the employer, principal, insurer, or attorney for any party). At its March 11 meeting, CRB took a "support in concept" position on SB 795, and agreed to communicate some concerns about the gift-giving provision to CCRA and Senator Boatwright.

Another bill, AB 1289 (Weggeland), would similarly prohibit the practice of incentive gift-giving by CSRs (*see* LEGISLATION). At its March 11 meeting, CRB agreed to take a "watch" position on AB 1289.

Although SB 795 and AB 1289 address many of the issues raised by the Court Reporting Reform Coalition, neither prohibits or regulates the provision of so-called "dirty ASCIIs" by CSRs. The term "dirty ASCIIs" refers to the practice of CSRs releasing rough drafts (uncertified versions) of their transcripts. Those in favor of allowing the practice to continue claim that the efficiency gained by using "real time" computer programs to quickly translate transcripts is of great benefit and outweighs the possible inaccuracies which might occur because the reporter does not review the entire transcript as he/she would if certifying it; the reporter relies, rather, on computer software to translate the transcript. Proponents also cite the huge financial investments which CSR firms have invested in these computer systems, and the corresponding financial benefits to be gained. Opponents of this practice feel it jeopardizes the quality of the work produced by CSRs. They claim that CSRs work very hard and complete extensive and rigorous training to ensure their accuracy. To sacrifice this accuracy for speed or economic gain would be an injustice to the industry members and to the consuming public. [15:1 CRLR 51]

LEGISLATION

SB 795 (Boatwright). Existing law specifies certain causes for suspension, revocation, or denial of a CSR certificate. As amended March 28, this bill would provide that a certificate may also be suspended or revoked upon failure to fulfill reasonable terms and conditions of probation; and include as a specified cause for disciplinary action any fraud or misrepresentation resorted to in attempting to obtain a certificate.

SB 795 would also expand the definition of unprofessional conduct by a CSR to include providing goods or services other than reporting services (except incidental services which are equally provided to all parties); contracting to provide services other than on a deposition-by-de-