



granted to DCA's boards and bureaus by SB 2044 (Boatwright) (Chapter 1135, Statutes of 1992). [13:1 CRLR 35] The three bureaus created an Unregistered Activity Unit to monitor yellow pages and other sources of public information in an effort to uncover possible unregistered activity and cite those guilty of infraction. Though unable to provide the exact number of citations that have been issued since the program's inception, BEAR Chief Marty Keller has called the program a "success" and stated that BEAR has been the most assertive bureau of the three chosen to participate in the pilot project.

Another enforcement development which emanated from SB 2044 is BEAR's new jurisdiction over those who perform camcorder repairs. According to Chief Keller, BEAR's threshold task is to determine precisely how many businesses presently perform such repair work; once this information is ascertained, BEAR can more efficiently facilitate industry compliance with applicable regulatory standards.

Due to administrative delay, however, one important enforcement provision of SB 2044 has yet to be implemented. Specifically, SB 2044 states that if, upon investigation, BEAR has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services without being properly licensed by the Bureau to offer or perform those services, the Bureau may issue a citation containing an order of correction which requires the violator to cease the unlawful advertising; if the person fails to comply with the order of correction after that order is final, BEAR shall notify the Public Utilities Commission (PUC), which will require the telephone corporation furnishing services to that person to disconnect the telephone service to any number contained in the unlawful advertising. At this writing, BEAR is working out the details of this procedure with the PUC.

## ■ LEGISLATION

**SB 798 (Rosenthal)**, as amended May 3, would require service contractors, as defined, to register with BEAR, and would prohibit a service contract administrator, as defined, from issuing, making, underwriting, or managing a service contract unless he/she is insured under a service contract reimbursement insurance policy, as defined. Among other things, this bill would require the filing of the form of a service contract issued by a service contractor prior to its use and would authorize DCA to invalidate the registration of a service contractor for

specified reasons and to investigate complaints against a service contractor. The bill would require a service contractor to pay various registration and renewal fees. This bill would require a service dealer or a service contractor who does not operate a place of business in this state, but who engages in the electronic repair industry, the appliance repair industry, or sells or issues service contracts in this state to hold a valid registration and to pay required registration fees.

Existing law permits the sale of a service contract to a buyer, except as specified, in addition to or in lieu of an express warranty if the contract fully discloses the terms, conditions, and exclusions of the contract and the contract contains specified information. This bill would additionally require the contract to include a statement identifying the person who is financially and legally obligated to perform the services specified in the service contract, including the name and address of that person. The bill would also set forth grounds for various citations and administrative fines. (See MAJOR PROJECTS for more information.) [S. Appr]

**SB 574 (Boatwright)**, as amended May 17, would—with respect to BEAR's jurisdiction—consolidate the list of electronic items under the terms "electronic set" and "appliance" or "major home appliance." The term "electronic set" would include, but not be limited to, any television, radio, audio or video record or playback equipment, video camera, video monitor, computer system, photocopier, facsimile machine, or cellular telephone normally used or sold for personal, family, household, or home office use. The terms "appliance" or "major home appliance" would include, but not be limited to, any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, trash compactor, or room air conditioner normally used or sold for personal, family, household, or home office use. [A. CPGE & ED]

**AB 1807 (Bronshvag)**, as amended May 3, would provide that, for purposes of implementing the distribution of the renewal of registrations throughout the year, the DCA Director may extend by not more than six months the date fixed by law for renewal of a registration, except that in that event any renewal fee which may be involved shall be prorated in such a manner that no person shall be required to pay a greater or lesser fee than would have been required had the change in renewal dates not occurred. [A. W&M]

**SB 842 (Presley)**, as amended April 13, would permit BEAR to issue interim orders of suspension and other license re-

strictions, as specified, against its licensees. [A. CPGE&ED]

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

*Executive Officer: James B. Allen*  
(916) 445-2413

**T**he Board of Funeral Directors and Embalmers licenses funeral establishments and embalmers. It registers apprentice embalmers and approves funeral establishments for apprenticeship training. The Board annually accredits embalming schools and administers licensing examinations. The Board inspects the physical and sanitary conditions in funeral establishments, enforces price disclosure laws, and approves changes in business name or location. The Board also audits preneed funeral trust accounts maintained by its licensees, which is statutorily mandated prior to transfer or cancellation of a license. Finally, the Board investigates, mediates, and resolves consumer complaints.

The Board is authorized under Business and Professions Code section 7600 *et seq.* The Board consists of five members: two Board licensees and three public members. In carrying out its primary responsibilities, the Board is empowered to adopt and enforce reasonably necessary rules and regulations; these regulations are codified in Division 12, Title 16 of the California Code of Regulations (CCR).

## ■ MAJOR PROJECTS

**DCA Releases Internal Audit of Board Activities.** In late May, the Department of Consumer Affairs' (DCA) Internal Audit Office (IAO) released its final report in response to an inquiry made by Assemblymember Jackie Speier regarding the Board's audit of four funeral homes. Specifically, Speier inquired about the status of the People's Funeral Home Trust Reserve Fund, which may be missing as much as \$154,000. Speier also questioned whether audit reports prepared by the Board on three other funeral homes (Mission Chapel, Fowler-Anderson Funeral Directors, and the Jesse Cooley Funeral Home) were accurate and, if so, whether any disciplinary action was taken by the Board against licensees responsible for inappropriate or illegal use of funds held in trust.

IAO reported that it found "several serious deficiencies" in the audits performed by the Board; for example, the Board failed to adhere to professional



standards for workpaper presentation, report preparation, and follow-up. Other findings of the audit include the following:

- auditees were notified of the Board's audit results, but not always in a timely fashion;

- although ordered by the Board, restitution has not been made to any consumers related to the audit reports reviewed;

- generally, any recommended corrective action suggested by the Board is unresolved, as disciplinary action has not been taken; further, Board Executive Officer Jim Allen stated that disciplinary action was contemplated only against Mission Chapel;

- out of four reviewed complaints against a fifth funeral home (Halverson-Leavell Funeral Home of San Pedro), one was properly closed, one may have been improperly closed, and two are still open and require Board attention; and

- the Board does not follow generally accepted auditing standards in the performance or reporting of its audits.

DCA's auditors stated that their review of the Board's audits of the funeral homes "was greatly hindered by the poor quality of the workpapers." For example, the Board's audit of People's Funeral Home Trust Reserve Fund indicates that its pre-need trust fund might be missing anywhere from \$57,000 to \$154,000; "[t]he workpapers are not sufficient to support either conclusion or to give greater validity to either conclusion." IAO found that the Board's lead auditor "appeared to lack the training and qualifications to adequately perform these audits," and that Executive Officer Allen is not sufficiently involved in the audit process, as he apparently did not supervise the work of the lead auditor or review any audit correspondence prior to dissemination to the audited funeral homes.

Most disturbingly, the IAO report reveals that the funeral home industry pays little or no attention to the Board. According to the report, Mission Chapel was told to take several corrective actions and make restitution to 18 consumers in 1991; in response, Mission failed to address any of the compliance issues and disputed 17 of the 18 refund recommendations. To date, the Board has not even responded to Mission's 1991 letter, much less taken any disciplinary action against the home, and no restitution has been made.

Similarly, Fowler-Anderson was told to take several corrective actions and make 22 refunds in 1992; the home ignored the corrective action orders and responded only to the recommended refunds by disputing ten, agreeing to eight, and

failing to address four. However, IAO found that Fowler-Anderson has failed to make any restitution—even in the cases in which it agreed restitution is warranted, and the Board now states that no disciplinary action will be taken because the home has been sold to new owners. The restitution orders remain unresolved.

With regard to Cooley, the Board completed its audit in 1990 and apparently made several corrective action recommendations; however, IAO found no evidence that the recommendations were ever even communicated to Cooley until April 1993 (well after IAO's audit was under way).

Along with the recent forced resignation of Cemetery Board Executive Officer John Gill (see agency report on CEMETERY BOARD for related discussion), this audit may prove to be the final nail in Executive Officer Jim Allen's coffin. DCA and Assemblymember Speier appear to be seeking a clean sweep of both boards and the appointment of new Board and staff members who will aggressively enforce the boards' statutory charge to protect consumers from unscrupulous death industry licensees.

#### LAO Proposes To Eliminate Board.

In its *Analysis of the 1993-94 Budget Bill*, one of the recommendations made by the Legislative Analyst's Office (LAO) for streamlining state government proposed that the legislature eliminate the state's regulatory role in thirteen currently-regulated areas. Particularly relevant to the Board of Funeral Directors and Embalmers is LAO's recommendation that the state stop regulating several consumer-related business activities. In determining whether the state should continue to regulate a particular area, LAO recommended that the state consider whether the board or bureau protects the public from a potential health or safety risk that could result in death or serious injury; whether the board or bureau protects the consumer from severe financial harm; and whether there are federal mandates that require the state to regulate certain activities. Based on these criteria, LAO recommended that the state remove its regulatory authority over activities currently regulated by the Board, among other DCA bureaus and agencies. At this writing, LAO's recommendations have not been amended into any pending legislation.

**Board Adopts Mission Statement.** At its February 3 meeting, the Board unanimously adopted a formal mission statement; the Board had considered adopting such a statement at its November 1992 meeting, but chose instead to have the statement reviewed by its Publications Committee and reintroduced at the Febru-

ary meeting. [13:1 CRLR 38] The Publications Committee, which consists of Board members Barbara Repa and Lottie Jackson, met on January 14 and made significant changes to the draft. The final version adopted by the Board states that its mission is to promote and protect the safety, health, and welfare of the consumer and support programs that foster consumer awareness. The Board also adopted the following goals:

- **Education:** to foster consumer awareness, both of the regulations and laws that guarantee their rights and of how to enforce those rights; and to help consumers make informed choices by providing information about the products and services available and by exposing fraudulent or deceitful information, advertising, and other misleading practices.

- **Enforcement:** to investigate all complaints within the Board's jurisdiction and make the findings known to all involved in a fair and timely manner; to mediate complaints to the satisfaction of those involved; and to take appropriate legal action—including discipline, citations, license suspension, and injunctive relief where necessary.

- **Regulation:** to protect consumers from fraudulent or deceptive practices in service and sales; and to guide members of the industry by clarifying, encouraging, and supporting appropriate regulations.

- **Participation:** to encourage consumer participation in the complaint and regulation processes with the assurance of full and sympathetic consideration.

- **Safety:** to protect against products and services that are hazardous to health or life.

**Proposed Rulemaking.** On April 2, the Board published notice of its intent to amend section 1258 and add new sections 1258.1, 1258.2, and 1258.3, Title 16 of the CCR. The Board proposed these regulatory changes to clarify several issues which were raised by the California Funeral Director's Association (CFDA); the Board had been considering the proposed action since CFDA first raised the issues in a letter to the Board in October 1992. [13:1 CRLR 35]

The proposed amendment to section 1258 would clarify a disclaimer requirement that applies to representations about sealing devices. Section 1258 currently requires that an informational and educational notice, regarding the preservative effects of sealed caskets, be prominently displayed on each casket having, or represented as having, a sealing device of any kind. The proposed action would provide that the notice must be prominently displayed in or on the subject caskets and



must be clearly visible to the public. The amendments would more clearly specify the exact statement to be used and would require a minimum size type and card for the statement. Additionally, the regulatory changes would require that the print contrast with the background and that no other notice, statement, price, information, picture, or other printing shall appear on the card. The amendment would also provide that the notice requirement be applicable to sealer-type caskets displayed by catalog or photograph, and that, in such cases, the notice shall be printed on the face of the photograph or page, or on an opaque label or sticker affixed to the face of the photograph or page.

Business and Professions Code section 7685 provides that funeral directors must provide to any person, upon beginning discussion of prices of funeral goods and services offered, a written or printed price list containing, among other things, the price range for all caskets offered for sale; section 7685 also requires funeral directors to provide to any person, when a request for specific information on a casket is made in person, a written statement or list which specifically identifies the casket by price and by thickness of metal, type of wood, or other construction, in addition to other identification requirements. Proposed new section 1258.1 would define the term "provide" to mean "give for retention." In addition, the section would require casket descriptions to be sufficiently descriptive so as to provide a reasonably accurate impression of the casket being described, including its color (which may be expressed as either the manufacturer's color or the generic color). The proposed regulation would also require that the casket price list differentiate between adult caskets and infant's or children's caskets; include only casket prices and not prices for alternative containers or unfinished wood boxes; and include all caskets that are stocked and readily available for use and/or purchase.

Business and Professions Code section 7685.1 requires funeral directors to place the price tag on each casket in a conspicuous manner. Existing law further provides that if a funeral director advertises a funeral service for a stated amount, any casket used to determine that price shall be displayed in the showroom and shall be available for sale. Proposed section 1258.1 would also require casket descriptions on price tags to be sufficiently descriptive so as to provide a reasonably accurate impression of the casket being described. Section 1258.1 would also require that price tags be placed on pictures of caskets displayed by catalog or photo-

graphically, and that all caskets offered for use and/or purchase be displayed either physically or photographically.

Proposed new section 1258.2 would provide a clear definition of the terms "casket," "rental casket," and "alternative container"; establish specific direction for the use of rental caskets (including disclosure requirements); and exempt rental caskets and the use/reuse thereof from the provisions of Business and Professions Code section 7702.

Proposed new section 1258.3 would clarify sections 7685.3 and 9662 of the Business and Professions Code. Section 7685.3 provides that, when presenting a sales contract to any person, a funeral director shall provide a statement informing the purchaser that information regarding funeral matters is available from the State Board of Funeral Directors and Embalmers; section 9662 provides that, when presenting a sales contract to any person, a cemetery authority or crematory shall provide a similar statement about the Cemetery Board. Existing law does not require a funeral director to provide the Cemetery Board information to a purchaser in instances where the funeral director is arranging for cemetery or crematory goods or services on behalf of the purchaser, and is including those charges in the contract for funeral goods or services as a cash advance item. Proposed section 1258.3 would require that the information specified in section 9662 regarding the Cemetery Board be supplied by a funeral director in those instances. The proposed action would also establish an interim period during which the information shall be supplied in writing when presenting a contract; thereafter, the statement shall be printed on the first page of the contract.

The Board was originally scheduled to hold a public hearing on these proposals on May 17; however, that hearing was cancelled and, at this writing, has yet to be rescheduled. The public comment period will remain open until the date of the rescheduled hearing.

Based on a decision at its February 3 meeting, the Board was also expected to propose the adoption of new section 1262, Title 16 of the CCR, regarding the practice of "constructive delivery" of funeral merchandise. [13:1 CRLR 37] Section 1262 would state that the delivery of merchandise, within the meaning of Business and Professions Code section 7741, means actual personal delivery to a purchaser, trustee, or beneficiary of merchandise that is used or is intended to be used in connection with a preneed arrangement. Any payment received for merchandise, where ac-

tual personal delivery of the merchandise will be delayed, shall be held in trust, as provided in Business and Professions Code section 7735 *et seq.*, until the merchandise is actually and personally delivered to and is in the immediate possession of the purchaser. Section 1262 would also provide that neither the delivery of a warehouse receipt nor any other form of constructive delivery shall constitute delivery of merchandise within the meaning of Business and Professions Code section 7741. Although the Board agreed at its February 3 meeting to notice section 1262 for formal adoption, the package of proposed regulatory actions released by the Board in April does not include this proposal.

## ■ LEGISLATION

**SB 155 (Boatwright)**, as introduced February 1, would require that a written authorization to cremate, provided to the authorizing agent by the funeral director or crematory and containing specified information, be signed, dated, and verified by the authorizing agent. This bill would require that funeral directors and crematories faithfully carry out the instructions of the authorizing agent, and provide that a funeral director who faithfully carries out those instructions is not liable for acts of the crematory, and the crematory that faithfully carries out those instructions is not liable for acts of the funeral director.

Existing law prohibits a crematory licensee from conducting cremations unless the licensee has a contractual relationship with a cemetery authority for final disposition of cremated remains that are not lawfully disposed of or claimed by persons entitled to custody of the remains within ninety days. This bill would provide that notwithstanding that provision, cremated remains may be disposed of, by a funeral director, cemetery authority, or crematory, after one year, by burial at sea, after certain notification requirements are met. [S. B&P]

**SB 842 (Presley)**, as amended April 13, would permit the Board to issue interim orders of suspension and other license restrictions against its licensees. [A. CPGE&ED]

## ■ LITIGATION

In *Funeral Security Plans v. Board of Funeral Directors and Embalmers*, 14 Cal. App. 4th 715, 18 Cal. Rptr. 2d 39 (1993), Funeral Security Plans, Inc. (FSP) challenged the trial court's rejection of its allegations that the Board repeatedly violated the Bagley-Keene Open Meeting Act, Government Code section 11120 *et seq.*; the Board cross-appealed, seeking a



reversal of the trial court's denial of its request for court costs and attorneys' fees. [13:1 CRLR 38] On March 25, the Third District Court of Appeal issued an opinion which affirms in part and reverses in part the trial court's decision.

The court first considered the interpretation of the Act's "pending litigation" exception, which allows state bodies to meet in closed session "to confer, and receive advice, from legal counsel" regarding pending litigation. FSP insisted that the exception should be construed strictly, objecting to the Board's routine discussion of facts presented for the first time in closed sessions by either staff or legal counsel. The Board argued that the traditional scope of the attorney-client privilege applies to all closed sessions involving pending or threatened litigation. The court rejected both arguments, finding that "FSP's position offends common sense and the Board's position violates the language, as well as the spirit, of the statutory scheme." The court found that deliberation and decisionmaking are necessary components of "conferring with" and "receiving advice from" legal counsel. However, the court rejected the Board's proposition that the attorney-client privilege is as broad in closed sessions as in all other arenas in which the privilege is invoked, choosing to leave that issue "to be resolved in a proper case in which the strong public policy ensuring open discussion and deliberation is weighed against the asserted need for the attorney-client privilege."

The court then discussed the Act's requirement that "legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session" whenever the Board meets in private under the pending litigation exception. FSP complained that on various occasions the Board failed to prepare the memorandum, prepared it late, and/or did not include in the memorandum the statutory authority or the facts and circumstances justifying the closed session; the Board responded by asserting a defense of substantial compliance. The court, however, rejected this defense, finding that a state body has "the burden of proving a compelling necessity for a closed session." Accordingly, the court held that the statute compels legal counsel to describe the existing facts and circumstances which would prejudice the position of the state body in the litigation if the discussion occurred in open session, and found that the Board did not comply with this requirement in the past.

The court then considered the proper interpretation of Government Code sec-

tion 11126(d), which allows a state body to hold a closed session "to deliberate on a decision to be reached based upon evidence introduced in a proceeding required to be conducted pursuant to [the Administrative Procedure Act (APA)]." FSP argued that the exception only applies when a public hearing has been conducted pursuant to the APA. The court disagreed, holding that the Board can seek legal advice and confer with counsel in a closed session about the propriety of proposed stipulated settlements, reinstatements, and disciplinary proceedings, as long as there is "a demonstrated prejudice to the public by open discussion." The court indicated that proving the purported prejudice to the Board's litigation posture would be more difficult when the Board is discussing a settlement of a disciplinary charge, as compared to when there is an ongoing investigation before litigation is initiated, or when the Board is involved in civil litigation.

The final issue considered by the court is whether the Board's two-member advisory committees constitute "state bodies" subject to the Act's open meeting requirements. The Board—which was represented in this litigation by the Attorney General's Office—argued that its two-member advisory committees may meet in private, relying in part on the language of Government Code section 11121.8, which states that the term state body "also means any advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons." FSP, counting the attendance of Executive Officer James Allen at the committee meetings, argued that the committees had three members and were thus subject to the Act under section 11121.8. The court rejected this argument, finding that Allen's attendance to answer questions and assist in the handling of matters before the committee did not make him a member of the committee.

However, despite the specific application of section 11121.8 to advisory committees—the type of committee here at issue, the court concluded that the Board's advisory committees are also subject to the Act under the much broader Government Code section 11121.7; that section states that the term state body "also means any board, commission, committee, or similar multimember body on which a member of a body which is a state body pursuant to section 11121, 11121.2, or 11121.5 serves in his or her official capac-

ity as a representative of such state body and which is supported, in whole or in part, by funds provided by the state body, whether such body is organized and operated by the state body or by a private corporation." The court found support for this position in a 1982 Attorney General's Opinion which found that meetings of the State Board of the California Community College Student Government Association (CCCSGA) are subject to the Act because some of CCCSGA's governing board members are members of the local student association, which does constitute a state body; according to the Attorney General, "when a second body is financed by a 'state body,' and a member thereof qua member serves on that second body, the open meeting requirements attach to and follow that member to the second body." [13:1 CRLR 1]

Regarding the Board's cross-appeal, the court held that because "the Board's conduct fosters a distrust of government, an understandable disenchantment with a secret process, and invites litigation," the trial court did not abuse its discretion by denying its request for costs and attorneys' fees.

Following the court's decision, the Board filed a petition for rehearing; on April 26, the court granted the Board's motion. At this writing, the rehearing has yet to be scheduled.

In *People v. Funeral Security Plans, Inc., et al.*, No. 205308, a separate action involving the Board and FSP, the Riverside County Superior Court rendered an opinion late last year which granted the Board's request for a permanent injunction against FSP and ordered the appointment of a receiver to take custody of more than \$16 million in preneed funeral arrangement trust funds administered by FSP. [13:1 CRLR 38] In addition to ordering FSP to take a variety of actions, the trial court assessed civil penalties totalling \$362,025. However, the defendants were granted a stay pending their appeal of the decision; at this writing, the court of appeal has not set a date for oral argument.

## RECENT MEETINGS

At its February 3 meeting, the Board continued its efforts to clarify the issues raised by CFDA last October; the Board decided to deal with most of the issues by proposing regulatory changes (see MAJOR PROJECTS). However, the Board referred two issues back to committee for further analysis. One of the issues concerns the presentation of preneed contracts. Business and Professions Code section 7745 requires every funeral director to present to the survivor of the deceased



who is handling the funeral arrangements or the responsible party a copy of any preneed agreement which has been signed and paid for in full or in part by or on behalf of the deceased and is in the possession of the funeral director. CFDA's questions about this requirement concern when the funeral director must present the copy of the preneed contract to the survivor or responsible party, the role of the Board in enforcement when violations are subject to civil penalties, and whether the Board may include sanctions for violation of this section in its citation and fine regulations. [13:1 CRLR 36] Unable to agree on the answers to these questions, the Board referred the issue back to its Pre-need Committee.

Also at the February meeting, a discussion arose during the public comment period regarding the Board's enforcement responsibilities. Several members of the audience spoke about their personal experiences with the funeral industry and criticized the Board for its inaction. Executive Officer Jim Allen responded to some of the comments by noting that several of the funeral homes being complained about were under investigation and that, unfortunately, the Board lacks the authority to initiate disciplinary actions in the interim.

## ■ FUTURE MEETINGS

October 28 in San Francisco.

## BOARD OF REGISTRATION FOR GEOLOGISTS AND GEOPHYSICISTS

*Executive Officer:*  
*Frank Dellechaie*  
*(916) 445-1920*

The Board of Registration for Geologists and Geophysicists (BRGG) is mandated by the Geologist and Geophysicist Act, Business and Professions Code section 7800 *et seq.* The Board was created by AB 600 (Ketchum) in 1969; its jurisdiction was extended to include geophysicists in 1972. The Board's regulations are found in Division 29, Title 16 of the California Code of Regulations (CCR).

The Board licenses geologists and geophysicists and certifies engineering geologists. In addition to successfully passing the Board's written examination, an applicant must have fulfilled specified undergraduate educational requirements and have the equivalent of seven years of relevant professional experience. The experience

requirement may be satisfied by a combination of academic work at a school with a Board-approved program in geology or geophysics, and qualifying professional experience. However, credit for undergraduate study, graduate study, and teaching, whether taken individually or in combination, cannot exceed a total of four years toward meeting the requirement of seven years of professional geological or geophysical work.

The Board may issue a certificate of registration as a geologist or geophysicist without a written examination to any person holding an equivalent registration issued by any state or country, provided that the applicant's qualifications meet all other requirements and rules established by the Board.

The Board has the power to investigate and discipline licensees who act in violation of the Board's licensing statutes. The Board may issue a citation to licensees or unlicensed persons for violations of Board rules. These citations may be accompanied by an administrative fine of up to \$2,500.

The eight-member Board is composed of five public members, two geologists, and one geophysicist. BRGG's staff consists of five full-time employees. The Board's committees include the Professional Practices, Legislative, and Examination Committees. BRGG is funded by the fees it generates.

## ■ MAJOR PROJECTS

### Hydrogeology Specialty Update.

After years of discussing the possibility of creating a special hydrogeology classification and examination to test and regulate hydrogeological practice in California [13:1 CRLR 39; 12:4 CRLR 81], BRGG took steps to accomplish its goal this spring by introducing legislation authorizing it to regulate the new category and drafting rulemaking to implement the legislation.

Hydrogeology is the interdisciplinary science of the study of water and its interrelation with rocks, soil, and humans, with an emphasis on groundwater. Hydrogeologists are concerned with the laws governing the movement of subterranean water, the mechanical, chemical, and thermal interaction of this water with the porous solid, and the transport of energy and chemical constituents by the flow. The practice of hydrogeology in California has grown exponentially over the last decade, leading some to express concern that not all those who are holding themselves out to practice hydrogeology are qualified to do so, to the possible detriment of the public. At present, there is no state regula-

tion of hydrogeology, and BRGG cites an urgent need to establish a hydrogeologist specialty certification for registered geologists to ensure that groundwater studies are conducted in a professional and competent matter.

As a result, BRGG has drafted and is sponsoring SB 433 (Craven), which would authorize BRGG to define hydrogeology, establish criteria to determine whether a geologist is qualified in hydrogeology for purposes of practicing hydrogeology and supervising persons seeking hydrogeologist certification, and administer a hydrogeologists' certification examination and licensing program. The bill would also allow BRGG to "grandparent in" currently-registered geologists as certified hydrogeologists without examination if they have specified experience (*see* LEGISLATION).

Additionally, on March 24, BRGG held a public hearing on proposed regulations to implement SB 433. Specifically, the Board seeks to amend section 3003, Division 29, Title 16 of the CCR, to define "hydrogeology" to mean "the application of the science of geology to the study of the occurrence, distribution, quantity and movement of water below the surface of the earth, as it relates to the interrelationships of geologic materials and process with water, with particular emphasis given to groundwater quality."

BRGG also seeks to adopt new section 3042 to create a specialty certification in hydrogeology. Applicants for certification must be registered as a geologist in California and have a knowledge of and experience in the geology of California; geologic factors relating to the water resources of the state; principles of groundwater hydraulics and groundwater quality (including the vadose zone); applicable state, federal, and local laws and regulations; principles of water well, monitoring well, disposal well, and injection well construction; elementary soil and rock mechanics in relation to groundwater, including the description of rock and soil samples from wells; and interpretation of borehole logs as they relate to porosity, permeability, or fluid character. An applicant for certification as a hydrogeologist must submit an application and three reference letters from either registered hydrogeologists or registered geologists who are qualified to practice hydrogeology. An applicant may be required to submit one or more hydrogeology reports prepared by him/her or which he/she was closely associated with during its preparation. The section would exempt registered civil engineers from the need to obtain certification.