



1, 1994, or revises the scope of practice of an existing category of health professional, to be supported by expert data, facts, and studies. [S. B&P]

AB 1807 (Bronshvag), as amended September 8, would authorize the issuance of a temporary certificate to practice as a psych tech under prescribed circumstances, including payment of a fee. This bill would add the knowing failure to protect patients by following specified infection control guidelines to the list of actions that constitute unprofessional conduct for a psych tech. This bill would also prohibit the Board from maintaining a reserve fund greater than three months of the appropriated operating expenditures for any fiscal year. [A. Inactive File]

RECENT MEETINGS

At the Board's September 16-17 meeting, Executive Officer Billie Haynes asked Board members to consider pursuing alternative sources of revenue, instead of increasing license renewal fees; possible sources are accreditation fees and application fees for evaluation of revoked licenses. The Executive Officer also announced that the Board will be moving its office to a new location in Sacramento.

FUTURE MEETINGS

January 14 in San Diego.
March 17-18 in Los Angeles.
May 19-20 in Sacramento.
September 15-16 in San Diego.
November 17-18 in Los Angeles.



BUSINESS, TRANSPORTATION AND HOUSING AGENCY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Director: Jay Stroh
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The Department of Alcoholic Beverage Control (ABC) is a constitutionally-authorized state department established in 1955 (section 22 of Article XX, California Constitution). The Alcoholic Beverage Control Act, Business and Professions Code sections 23000 *et seq.*, vests the Department with the exclusive power to regulate the manufacture, sale, purchase, possession, and transportation of alcoholic beverages in California. In addition, the Act vests the Department with authority, subject to certain federal laws, to regulate the importation and exportation of alcoholic beverages across state lines. ABC also has the exclusive authority to issue, deny, suspend, and revoke alcoholic beverage licenses. Approximately 77,000 retail licensees operate under this authority. ABC's regulations are codified in Divisions 1 and 1.1, Title 4 of the California Code of Regulations (CCR). ABC's decisions are appealable to the Alcoholic Beverage Control Appeals Board. Further, ABC has the power to investigate violations of the Business and Professions Code and other criminal acts which occur on premises where alcohol is sold. Many of the disciplinary actions taken by ABC, along with other information concerning the Department, are printed in liquor industry trade publications such as the *Beverage Bulletin* and *Beverage Industry News*.

The Director of ABC is appointed by, and serves at the pleasure of, the Governor. ABC divides the state into two divisions (northern and southern) with assistant directors in charge of each division. The state is further subdivided into 21 districts, with two districts maintaining branch offices.

ABC dispenses various types of licenses. "On-sale" refers to a license to sell alcoholic beverages which will be bought and consumed on the same premises. "Off-sale" means that the licensee sells alcoholic beverages which will not be consumed on the premises. Population-

based quotas determine the number of general liquor licenses issued each year per county. No such state restrictions apply to beer and wine licenses.

MAJOR PROJECTS

Governor's Blue Pencil Saves ABC's \$4.5 Million Reserve Fund. While signing the 1993-94 Budget Act, Governor Wilson used his line item veto authority to delete the legislature's attempt to transfer \$4.5 million from ABC's reserve fund to the general fund for use elsewhere in the state budget. According to Wilson, the transfer would have left ABC "with insufficient reserves to meet emergencies or contingencies which might occur during the fiscal year." Wilson also noted that AB 432 (Floyd) (Chapter 900, Statutes of 1992) requires ABC to transfer revenues from specified fees to the general fund annually; for the 1993-94 fiscal year, the transfer pursuant to that legislation is estimated to be over \$13 million. [12:4 CRLR 136]

ABC's budget for fiscal year 1993-94 has been set at \$22.9 million; the Department of Finance estimated ABC's 1992-93 expenditures to be \$24 million.

Telecommunications and Computer Upgrade in Progress. Proceeds from the one-time \$70 surcharge on various annual fees for different categories of ABC licensees authorized by AB 432 (Floyd) (Chapter 900, Statutes of 1992) have financed a \$3 million upgrade of the Department's telecommunications and computer systems; a number of new computer work stations and phone lines are being installed in ABC's main Sacramento office and other satellite offices around California. ABC Deputy Director Manuel Espinoza estimates that there will be a computer for almost every employee; Espinoza expects the upgrade to be completed by the beginning of 1994. The computer system will be used for all aspects of ABC's operations, including administrative, enforcement, and licensing programs.

ABC Strengthens Enforcement Unit. ABC is well on its way to rebuilding its workforce to approximately the same level as it was in 1990, before budget cuts forced the Department to reduce its spending by \$5 million. [13:2&3 CRLR 117] For example, ABC is increasing its staff of



investigators back to the previous level of 145 positions. At this writing, approximately 92% of those positions are filled, and more than 75% of those new employees are already performing enforcement activities; the other 25% of new investigators are in training. ABC expects the hiring process to be completed by the end of the year.

ABC's priorities for its enforcement efforts are changing with the increased staff. The Department's first priority for enforcement will be controlling the "disorderly presence" of alcohol beverage outlets, focusing on rowdy bars that bring down the quality of life in the communities in which they are located; controlling sales to minors and intoxicated persons are ABC's second and third priorities. Another high priority will be improving the ability of the Department's Business Practices Division to curb various improper business practices of retailers, such as the illegal pocketing of in-store rebates meant for consumers.

ABC's enforcement unit is teaming up with law enforcement units throughout the state to target high crime areas by forming task forces consisting of police officers, ABC investigators, and a supervisor from each agency. These task forces conduct undercover investigations during which they watch specific licensees over a period of time and document all violations that are observed; these task force operations allow ABC to impose large penalties on licensees with numerous violations.

Senate Confirms Governor's Appointments to Appeals Board. In August, the state Senate confirmed Governor Wilson's three appointments to the ABC Appeals Board. The Senate voted 30-0 to confirm Chair Ed Davis of Morro Bay, Ray Blair of San Diego, and John Tsu of Millbrae. [13:2&3 CRLR 117]

ABC Continues Work on Regulatory Revisions. At this writing, ABC's proposed amendments to sections 52, 53, 55.5, 59, 59.5, and 106, and proposed adoption of new sections 53.5 and 101, Title 4 of the CCR, await adoption by the Director and review and approval by the Office of Administrative Law. Among other things, the changes would provide that licensees or officers, agents, or employees of licensees may make gifts of alcoholic beverages to non-licensees for personal use under specified conditions; allow winetastings to be conducted for a fee; implement the statutory privilege of holding beer tastings; provide that each on-sale beer and wine boat licensee and each on-sale general boat licensee may designate ten commercial docks from which it will be allowed to sell alcoholic

beverages, in addition to the boat's home port dock; provide that a temporary beer license, a temporary wine license, and/or a daily on-sale general license may be revoked summarily by ABC if, in the opinion of ABC or the local law enforcement agency, such action is necessary to protect the safety, welfare, health, peace, and morals of the people of California; require brand sales reporting in California; and provide that "drink nights," "bar nights," or similar promotional events conducted for the purpose of promoting a specific brand(s) of alcoholic beverage products may be sponsored by suppliers on licensed retail premises, under specified circumstances. [13:2&3 CRLR 118; 12:4 CRLR 117]

■ LEGISLATION

AB 159 (T. Friedman), as amended July 13, would have prohibited on and after January 1, 1994, the issuance or renewal, and would provide for the revocation, of any club license of a club, as defined, with specified exceptions, that denies any person entry or membership, or unreasonably prevents the full enjoyment of the club, on the basis of the person's color, race, religion, ancestry, national origin, sex, disability, or age. Governor Wilson vetoed this bill on October 8.

SB 814 (Greene). Existing "tied-house" restrictions prohibit a manufacturer, winegrower, manufacturer's agent, rectifier, California winegrower's agent, distiller, bottler, importer, and wholesaler, and any officer, director, or agent of any of those persons, from having specified relationships with an on-sale alcoholic beverage licensee, with limited exceptions. As amended August 26, this bill provides additional exceptions to those restrictions by authorizing any licensee or officer, director, employee, or agent of a licensee that holds no more than eight on-sale licenses to hold not more than 16.67% of the stock of a corporation that holds beer manufacturer licenses that are located in Sacramento, Placer, El Dorado, Marin, or Napa counties, and to serve on the board of directors and as an officer or employee of that corporate licensed beer manufacturer. That on-sale licensee would be prohibited from purchasing alcoholic beverages for sale in this state other than from a licensed wholesaler or wine grower. Senator Greene carried this measure for the owners of the Sudwerk Brewery and the Old Spaghetti Factory Restaurants, who wish to combine resources to construct a microbrewery and a restaurant at the same location. This bill was signed by the Governor on October 7 (Chapter 907, Statutes of 1993).

SB 1022 (Thompson), as amended August 31, requires each licensed wine-grower or wine blender and each importer of wine to pay to ABC prescribed annual fees to be deposited in the Wine Safety Fund established by this bill for the purposes of better enabling the state Department of Health Services to carry out and supervise a program to ensure that levels of lead in wine sold in this state remain within applicable tolerances, upon appropriation by the legislature in the annual Budget Act. This fee requirement will be repealed as of January 1, 2000.

This bill provides that wine is adulterated food if it contains prescribed levels of lead, or it has a metal foil capsule containing prescribed levels of lead attached to its container, except as prescribed. The bill vests exclusively in certain state and local officers and agencies the right to pursue specified actions based on an alleged violation of this bill, grants prescribed protections from prosecution to retailers, as defined, as are afforded to food dealers, and provides that prescribed provisions of the bill do not apply to any action for personal injury or wrongful death, or any action based upon a failure to warn. This bill was signed by the Governor on October 9 (Chapter 1025, Statutes of 1993).

AB 8 (Connolly), as amended April 26, requires every retail licensee in this state who sells keg beer for consumption off the licensed premises to place an identification tag on that beer keg and require the signing of a receipt identifying the purchaser's name, address, and driver's license number or equivalent identification, for purposes of identifying individuals who purchase kegs for consumption by minors at "keg parties." The retail licensee will be required to retain a copy of the receipt for six months, and have receipt records available for inspection by ABC or other authorized law enforcement agency. The bill authorizes ABC to charge a fee not to exceed the actual cost of supplying receipt forms and identification labels, which fees will be deposited in the Alcohol Beverage Control Fund. This bill was signed by the Governor on July 30 (Chapter 270, Statutes of 1993).

AB 107 (Tucker). Existing law permits the transfer of off-sale general alcoholic beverage licenses from one county to another subject to various restrictions on the number of licenses that may be issued in a county, and subject to a requirement that a \$6,000 fee be paid. As amended March 22, this bill permits the transfer of any off-sale general license issued prior to April 29, 1992, located within certain census tracts in Los Angeles County to another county without regard



to those limitations, and provides that the transfer fee is \$100. This bill was signed by the Governor on October 11 (Chapter 1285, Statutes of 1993).

AB 330 (Baca). Existing law requires an out-of-state beer manufacturer to have an out-of-state beer manufacturer's certificate in order to ship beer manufactured outside the state to licensed importers in the state. Existing law also requires an out-of-state vendor shipping beer into the state to hold a certificate of compliance. An applicant for an out-of-state beer manufacturer's certificate or a certificate of compliance must agree to comply with all laws and regulations of this state relating to the sale of alcoholic beverages. As amended April 27, this bill requires these applicants to agree to comply with all laws and regulations of this state relating to the sale of alcoholic beverages to the same extent as licensees. This bill was signed by the Governor on June 29 (Chapter 49, Statutes of 1993).

AB 374 (Statham). Existing law limits the number of on-sale general alcoholic beverage licenses which may be issued in any county based on the ratio of licenses to the specific number of inhabitants in the county. The law provides that premises owned by the state, any incorporated city, county, city and county, airport district, or other district or public corporation of the state, or premises leased to any city or county, shall be exempt from the limitation, provided the premises are operated as a bona fide public eating place, with specified exceptions. Existing law also provides that the original application fee for these licenses shall be a specified percentage of the average price paid for the same type of license in the county during the previous fiscal year, as determined by ABC, but no less than \$12,000 in case of an original on-sale general license or original off-sale general license or \$9,000 in the case of certain seasonal licenses. As amended February 24, this bill instead provides that those premises shall be subject to an original license application fee of \$6,000. This bill was signed by the Governor on July 8 (Chapter 85, Statutes of 1993).

AB 379 (Conroy). Existing law generally prohibits a manufacturer of alcoholic beverages and a winegrower from paying, crediting, or compensating a retailer for advertising, paying, or giving anything of value for the privilege of placing a sign or advertisement with a retail licensee. It authorizes, as an exception, the holder of a beer manufacturer's or winegrower's license to purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to specified conditions,

including that the on-sale licensee is the owner of an outdoor stadium or a fully enclosed arena with a fixed seating capacity in excess of 10,000 seats located in a county of the eighth class. As introduced February 9, this bill expands that exception to include the Ogden Corporation, an on-sale licensee which will operate the Anaheim Arena in Orange County for use by the Mighty Ducks, a new National Hockey League franchise. This bill was signed by the Governor on June 16 (Chapter 33, Statutes of 1993).

AB 1047 (Epple). Existing law requires ABC agents to successfully complete the four-week course on narcotics enforcement approved by the Commission on Peace Officer Standards and Training by June 1, 1993. As introduced March 1, this bill extends the completion date to June 1, 1995. This bill was signed by the Governor on September 8 (Chapter 353, Statutes of 1993).

AB 1666 (Hoge). Existing law provides that a winegrower or beer manufacturer may give, sell, or give and sell wine or beer, respectively, at prices other than those contained in schedules filed with ABC, to nonprofit charitable corporations or nonprofit incorporated trade associations exempt from payment of income taxes under the Internal Revenue Code. As amended May 13, this bill extends this exception to a nonprofit charitable corporation or incorporated trade association exempt from payment of income taxes under specified provisions of the California Revenue and Taxation Code, and certain nonprofit corporations or associations exempt from payment of income tax under federal and state law, as specified, subject to specified conditions. This bill was signed by the Governor on September 8 (Chapter 400, Statutes of 1993).

AB 1938 (Statham). Existing tie-house provisions of the Alcoholic Beverage Control Act generally prohibit an on-sale alcoholic beverage licensee from having an ownership interest in an alcoholic beverage manufacturer, and establish a limited exception to these restrictions in a county of the first class. As amended May 13, this bill authorizes the holder of no more than six on-sale licenses to (1) own a corporate licensed beer manufacturer that produces 60,000 barrels or less a year, and (2) serve on the board of directors and as an officer or employee of that manufacturer. The bill specifies that it does not apply to a county of the first class. This bill was signed by the Governor on September 8 (Chapter 362, Statutes of 1993).

SB 113 (Thompson), as amended July 8, authorizes a licensed winegrower to sell or serve beers, wines, and brandies on premises, either in a bona fide eating

place, as defined, or to guests during private events or private functions not open to the general public.

Existing law generally prohibits the sale or consumption of alcoholic beverages at a public schoolhouse; existing law provides that this prohibition does not apply if the alcoholic beverage is wine and certain conditions apply, including that the community college district maintains a specified viticulture program on no less than 300 acres owned by the district. This bill instead requires the viticulture program be maintained on five acres of land owned by the district. The bill also provides that the prohibition against the sale or consumption of alcoholic beverages at a public schoolhouse does not apply if the alcoholic beverage is acquired, possessed, or used at a professional minor league baseball game conducted at the stadium of a community college located in a county with a population of less than 250,000 inhabitants, as specified. This bill was signed by the Governor on July 30 (Chapter 238, Statutes of 1993).

SB 182 (Hughes). Existing law permits ABC to refuse to grant an alcoholic beverage license to a club if the club discriminates on specified grounds. As amended July 13, this bill would prohibit the licensure of any club, as defined, that restricts membership or the use of services or otherwise discriminates on specified grounds, and provide for the suspension or revocation of licensure for those clubs. This bill would exempt specified clubs from these provisions. [A. Inactive File]

SB 184 (Maddy), as introduced February 3, would provide that, with respect to beer sold by a licensed wholesaler to a retailer, delivery shall be made only at a retail premises licensed to the retailer or from a loading area at the wholesaler's licensed premises. [S. Floor]

SB 283 (Dills). Existing law prohibits the issuance of a wholesale license to any person who does not in good faith actually carry on or intend to carry on a bona fide wholesale business by sale to retail licensees of the alcoholic beverages designated in the wholesale license. As amended May 24, this bill would require beer wholesalers to own or lease licensed warehouse space for each location where the wholesaler stores or sells beer; offer to sell and deliver all of the brands of beer it handles, except private label brands, to retailers generally, rather than a selected few retailers; service for the purpose of quality control all the beer it sells to retailers; and comply with specified requirements. [S. Floor]

SB 1156 (Watson), as introduced March 5, would require on-sale licensees to in-



stall and maintain coin-operated vending machines which dispense affordable, high quality latex condoms. [S. GO]

AB 463 (Tucker). Existing law requires beer manufacturers, importers, and wholesalers to file and maintain on file with ABC a schedule of selling prices charged by the licensee for beer. As amended April 12, this bill would require the licensee, unless exempted as specified, to mail or deliver written notice of any new or changed wholesale price to all retail licensees within a specified territory, and to maintain a record of the mailing or delivery, including an affidavit or declaration executed under penalty of perjury. This bill would provide that, alternatively, the licensee may notice the new or changed wholesale price for each affected brand by advertisement in a publication intended for circulation to retail licensees.

[A. Inactive File]

AB 987 (Tucker). Existing law authorizes the exchange of an on-sale license issued for a bona fide public eating place for a similar license for public premises and the exchange of a license issued for public premises for a similar license for a bona fide public eating place, upon the payment of an exchange fee, as specified, which is deposited directly in the general fund, rather than in the Alcohol Beverage Control Fund. As amended June 16, this bill would instead provide for the deposit of that fee amount directly into the Alcohol Beverage Control Fund.

Existing law authorizes and regulates certain fair trade contracts and the filing of price lists with ABC, as specified. This bill would delete those provisions. [S. Inactive File]

AB 988 (Tucker). Existing law authorizes and regulates certain fair trade contracts and the filing of price lists with ABC, as specified. As introduced March 1, this bill would delete those provisions. [S. GO]

ACA 6 (Tucker), as amended August 16, would provide that if there is probable cause to believe a licensee has sold an alcoholic beverage to a person under the age of 21 years, the state Constitution does not prohibit the use of persons at least 18 years of age but under the age of 21 years by peace officers as decoys to catch persons who sell alcoholic beverages to persons under the age of 21 years, and would provide that a person at least 18 years of age but under the age of 21 years who purchases or attempts to purchase any alcoholic beverage while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase alcoholic beverages, as specified. [A. Inactive File]

AB 1208 (Tucker), as amended July 13, would provide that if there is reasonable cause to believe a licensee has sold an alcoholic beverage to a person under the age of 21 years, specified statutory provisions do not prohibit the use of persons under the age of 21 years by peace officers as decoys to catch persons who sell alcoholic beverages to persons under the age of 21 years, and would provide that a person under the age of 21 years who purchases or attempts to purchase any alcoholic beverage while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase alcoholic beverages. It would require law enforcement agencies that use decoys to abide by specified guidelines. The bill would specify that certain requirements shall be met in order for the ABC to use decoys in those circumstances, including a requirement that prior to using a decoy ABC or the peace officer proposing the use shall prepare and execute an affidavit under penalty of perjury stating facts supporting the reasonable cause. [A. GO]

AB 1230 (Conroy). Existing law authorizes ABC to impose reasonable conditions upon a retail alcoholic beverage licensee or any licensee in exercise of retail privileges, upon request of the licensee or an applicant for a license, in specified situations. Existing law also specifies the subject matter to which these conditions may relate, including the personal conduct of the licensee. As amended April 15, this bill would provide that a condition concerning the personal conduct of the licensee, placed upon a license issuance or renewal which forbids or limits the installation, placement, or use of coin-operated video games on the premises, shall not be imposed without a hearing. [A. W&M]

AB 1932 (Quackenbush). Existing law provides that beer and wine upon which excise taxes have been paid to the state may be stored by or for any licensee without the necessity of any license by the person furnishing the storage space or any special additional license by the licensee. As amended May 25, this bill would limit this provision to wine. The bill would also provide that, with respect to beer sold by a licensed wholesaler to a retailer, delivery shall be made only at a retail premises licensed to the retailer from a loading area at the wholesaler's licensed premises or to an approved warehouse. [A. GO]

AB 1974 (Horcher). Existing law provides that premises that have been used prior to the effective date of a zoning ordinance may continue operation if certain conditions are met. As amended September 1, this bill would provide for any license issued for any grocery, market, or

convenience store that was completely destroyed or rendered unusable as a result of the civil disturbance in Los Angeles in April 1992, the City or County may not impose or enforce, as a specific condition of allowing reconstruction or reopening, any of specified types of restrictions on the reconstruction or continued operation of those premises. The bill would provide for any grocery, market, or convenience store that was completely destroyed or rendered unusable as a result of the civil disturbance in Los Angeles in April 1992, any off-sale general license issued prior to April 29, 1992, for that location may be transferred from that County to another county without regard to certain limitations on transfer.

The bill would provide that if a city or county enacts or applies land use regulations and restrictions on the operation of those premises that are more restrictive than those applicable prior to April 29, 1992, and if the owner of the premises refuses to consent to those restrictions or to transfer the license to another county, at the option of the owner of the premises or licensee, the city or county may purchase the business provided that specified funds are available, in which case the business would be valued at its value prior to destruction less any insurance payments received on account of the destruction. [S. Inactive File]

AB 611 (Cortese). Existing law generally prohibits a manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director, or agent of that person from, among other things, providing a licensee alcoholic beverages as free goods as a part of any sale or transaction involving alcoholic beverages, or furnishing anything of value to a licensee for specified purposes. However, existing law authorizes any winegrower, California winegrower's agent, importer, or any director, partner, officer, agent, or representative of that person, to conduct or participate in an instructional event for consumers held at a retailer's premises featuring wines produced by or for the winegrower or imported by the importer, subject to certain specified conditions. One condition provides that no alcoholic beverages shall be given away in connection with the instructional event; however, wine taken from barrels or from tanks, that is used in blending the wines being featured, may be sampled at the instructional event. As amended April 29, this bill would specify that the term "importer" as used in that provision means a wine importer. The bill would modify the above condition to delete the requirement that the wine to be sampled at the instructional event be wine



that is used in blending the wines being featured. [S. GO]

S. 674 (Thurmond) is federal legislation to enact the Sensible Advertising and Family Education Act which would, among other things, require specified health warnings to be included in alcoholic beverage advertisements. This bill is pending in the Senate Commerce, Science, and Transportation Committee.

LITIGATION

In *Proviso Corporation v. Alcoholic Beverage Control Appeals Board* and *Lucky Stores v. Alcoholic Beverage Control Appeals Board*, Nos. A058137 & A058534 (Jan. 27, 1993), the First District Court of Appeal addressed the constitutionality of the use of underage youths as decoys in the enforcement of the prohibition against selling alcohol to minors. In both cases, ABC suspended the licenses of petitioners for selling alcohol to minors; the minors who purchased the alcoholic beverages were working in a decoy program for their respective police departments. Petitioners argued that the use of underage police agents to purchase alcoholic beverages is unconstitutional and requires dismissal of the charges. Petitioners also raised the defenses of entrapment and violation of due process in the failure of the local police departments to follow ABC guidelines for a decoy program. In its decision reversing ABC's action, the First District found that the constitutional provision which states that "[n]o person under the age of 21 shall purchase any alcoholic beverage" is clear and unambiguous and contains no exceptions; the court also noted that no exception has been created by statute. [13:2&3 CRLR 120]

On April 29, the California Supreme Court granted ABC's petition to review both cases. Since that time, the City of Los Angeles, nine alcohol policy groups, and an enforcement organization, among others, have each filed *amicus curiae* briefs supporting ABC's position; the California Grocers Association, the California Restaurant Association, the California Retailers Association, eighteen chambers of commerce, and some beverage industry labor unions have filed *amicus curiae* briefs in support of the licensees.

The issue is also being addressed in the legislature; ACA 6 (Tucker) and its companion measure, AB 1208 (Tucker), would permit the use of minor decoys but require ABC and enforcement agencies to show "probable cause" before proceeding with a minor decoy operation (see LEGISLATION).

BANKING DEPARTMENT

Superintendent:

James E. Gilleran

(415) 557-3232

Toll-Free Complaint Number:

1-800-622-0620

Pursuant to Financial Code section 99 *et seq.*, the State Banking Department (SBD) administers all laws applicable to corporations engaging in the commercial banking or trust business, including the establishment of state banks and trust companies; the establishment, operation, relocation, and discontinuance of various types of offices of these entities; and the establishment, operation, relocation, and discontinuance of various types of offices of foreign banks. The Department is authorized to adopt regulations, which are codified in Chapter 1, Title 10 of the California Code of Regulations (CCR).

The superintendent, the chief officer of the Department, is appointed by and holds office at the pleasure of the Governor. The superintendent approves applications for authority to organize and establish a corporation to engage in the commercial banking or trust business. In acting upon the application, the superintendent must consider:

(1) the character, reputation, and financial standing of the organizers or incorporators and their motives in seeking to organize the proposed bank or trust company;

(2) the need for banking or trust facilities in the proposed community;

(3) the ability of the community to support the proposed bank or trust company, considering the competition offered by existing banks or trust companies; the previous banking history of the community; opportunities for profitable use of bank funds as indicated by the average demand for credit; the number of potential depositors; the volume of bank transactions; and the stability, diversity, and size of the businesses and industries of the community. For trust companies, the opportunities for profitable employment of fiduciary services are also considered;

(4) the character, financial responsibility, banking or trust experience, and business qualifications of the proposed officers; and

(5) the character, financial responsibility, business experience and standing of the proposed stockholders and directors.

The superintendent may not approve any application unless he/she determines that the public convenience and advantage will be promoted by the establishment of the proposed bank or trust company; con-

ditions in the locality of the proposed bank or trust company afford reasonable promise of successful operation; the bank is being formed for legitimate purposes; the capital is adequate; the proposed name does not so closely resemble as to cause confusion with the name of any other bank or trust company transacting or which has previously transacted business in the state; and the applicant has complied with all applicable laws.

If the superintendent finds that the proposed bank or trust company has fulfilled all conditions precedent to commencing business, a certificate of authorization to transact business as a bank or trust company will be issued.

The superintendent must also approve all changes in the location of a head office; the establishment, relocation, or discontinuance of branch offices and ATM facilities; and the establishment, discontinuance, or relocation of other places of business. A foreign corporation must obtain a license from the superintendent to engage in the banking or trust business in this state. No one may receive money for transmission to foreign countries or issue money orders or travelers checks unless licensed.

The superintendent examines the condition of all licensees when necessary, but at least once every two years. The Department is coordinating its examinations with the Federal Deposit Insurance Corporation (FDIC) so that every year each agency examines certain licensees. New and problem banks and trust companies are examined each year by both agencies.

The superintendent licenses Business and Industrial Development Corporations which provide financial and management assistance to business firms in California.

Acting as Administrator of Local Agency Security, the superintendent oversees security pools that cover the deposits of money belonging to a local governmental agency in any state or national bank or savings and loan association. All such deposits must be secured by the depository.

In June, SBD announced the appointment of Walter Mix III to the position of Senior Deputy Superintendent of Banks.

MAJOR PROJECTS

SBD Releases Annual Report. On May 28, SBD released its 83rd Annual Report, for the calendar year ended on December 31, 1992. Among other things, the report included the following comments and findings:

-The California economy remained in a recession during 1992; the state's unemployment rate rose to 9.4% by the third quarter of 1992, while the national rate