



to remove a person from a committee or task force; in that event, BOA's Vice President would relay the decision to the person involved.

At the November meeting, BOA unanimously agreed to adopt a resolution to establish a \$100 biennial renewal fee for "inactive" retired licensees over 65 years of age and directed staff to determine the proper means for implementing the resolution.

Also at BOA's November meeting, Executive Officer Carol Sigmann announced the resignation of Assistant Executive Officer Karen Scott; according to Sigmann, the recruitment procedure to hire Scott's replacement has already begun.

FUTURE MEETINGS:

May 15-16 in Los Angeles.
July 31-August 1 in San Francisco.
September 18-19 in San Diego.
November 13-14 in San Francisco.

BOARD OF ARCHITECTURAL EXAMINERS

Executive Officer: Stephen P. Sands
(916) 445-3393

The Board of Architectural Examiners (BAE) was established by the legislature in 1901. BAE establishes minimum professional qualifications and performance standards for admission to and practice of the profession of architecture through its administration of the Architects Practice Act, Business and Professions Code section 5500 *et seq.* The Board's regulations are found in Division 2, Title 16 of the California Code of Regulations (CCR). Duties of the Board include administration of the Architect Registration Examination (ARE) of the National Council of Architectural Registration Boards (NCARB), and enforcement of the Board's statutes and regulations. To become licensed as an architect, a candidate must successfully complete a written and oral examination, and provide evidence of at least eight years of relevant education and experience. BAE is a ten-member body evenly divided between architects and public members. Three public members and the five architects are appointed by the Governor. The Senate Rules Committee and the Speaker of the Assembly each appoint a public member.

MAJOR PROJECTS:

Board Amends Reciprocity Regulation. On November 5, the Office of Administrative Law approved BAE's amendment to section 121, Title 16 of

the CCR. The amendment grants reciprocity to architects who pass NCARB's Architect Registration Examination as administered by the Committee of Canadian Architectural Councils. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 58 for background information.) The amendment went into effect on January 1, 1992.

Budget Change Proposal Approved. The Department of Finance recently approved BAE's budget change proposal which will provide the Board with an additional \$230,000 in fiscal year 1992-93; these funds will enable BAE to microfilm all of its licensing and other vital records. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 58 for background information.)

FUTURE MEETINGS:

To be announced.

ATHLETIC COMMISSION

Executive Officer: Richard DeCuir
(916) 920-7300

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

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

The Commission's goals are to ensure the health, safety, and welfare of boxers, and the integrity of the sport of

boxing in the interest of the general public and the participating athletes.

MAJOR PROJECTS:

Commission Hires New Executive Officer. Following Executive Officer Ken Gray's resignation in July 1991, the Commission conducted an extensive search to fill the vacancy. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 59; Vol. 11, No. 3 (Summer 1991) p. 59; and Vol. 11, No. 2 (Spring 1991) p. 55 for background information.) On October 18, the Commission held a special meeting devoted to interviewing six semi-finalists for the position. At this meeting, the Commission interviewed former Commissioner Raoul Silva, Assistant Executive Officer Steve English, Chief Athletic Inspector Rob Lynch, Referee Rudy Ortega, Arthur Tyler, and Richard DeCuir. Following the interviews, the Commission chose Richard DeCuir, Rob Lynch, and Rudy Ortega as finalists. However, since all Commission members were not present, the Commission agreed to wait until its next meeting to make the final decision.

On November 15, the Commission selected Richard DeCuir as its new Executive Officer, even though some members were unable to attend the meeting. DeCuir, formerly the Assistant Executive Officer at the Board of Dental Examiners for seven years, stated that he is anxious to computerize the Commission's records and ready to deal with the tight budget restraints faced by the Commission.

Legislative Subcommittee Conducts Interim Hearing on Boxing Bills. On November 1, the Senate Business and Professions Committee's Subcommittee on Sports heard testimony regarding AB 647 (Floyd), AB 648 (Moore), and AB 649 (Floyd). (See *infra* LEGISLATION for more information on these bills.)

Much of the testimony centered on the professional boxers' pension plan and AB 649's provision which would specify that participation in the plan is voluntary instead of mandatory. The measure is supported by Los Angeles boxing promoters, who contend that California is losing fights to other states because too many boxers are forced to contribute to a pension plan they do not want to fund. The opposition to AB 649 was led by Center for Public Interest Law Director Robert C. Fellmeth, who originally spearheaded the pension plan concept when he chaired the Athletic Commission in 1982. Professor Fellmeth argued that because boxers depend upon promoters for their



matches, they are in no position to determine where their matches are going to be. And, if the system is made voluntary, none of them will be permitted to join it by their managers and promoters. The opponents contended that the real source of support for the bill is the fact that managers and promoters themselves have to pay into the boxer pension plan. Professor Fellmeth was accompanied to the hearing by Mando Ramos, former lightweight champion of the world, and by heavyweight contender Jerry Quarry, both of whom presented testimony on boxers' lack of bargaining power and the impoverished fate of many boxers lacking pension support.

Although no vote was taken, Subcommittee staff believes that the members will not support a weakening of the pension plan and may agree to Professor Fellmeth's suggestion that the plan be strengthened by allowing early withdrawal of part of a boxer's accrued funds at time of retirement for retraining in an alternative income-producing trade.

Regulatory Changes. On October 28, the Office of Administrative Law (OAL) approved the Commission's adoption of section 288 and amendments to section 282, Title 4 of the CCR, regarding vision requirements and ringside physicians, respectively. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 59; Vol. 11, No. 3 (Summer 1991) p. 59; and Vol. 11, No. 2 (Spring 1991) p. 55 for background information.)

On November 15, the Commission conducted a public hearing on proposed amendments to sections 312, 345, and 401, Title 4 of the CCR. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 59 for background information.) Following the hearing, the Commission adopted the proposed amendment to section 312, which would increase the number of ring ropes from three to four and specify that the fourth rope shall be 54 inches above the ring floor. The Commission also adopted the proposed amendment to section 401, regarding the professional boxers' pension plan. The proposed amendments provide that a boxer's contributions shall begin once the boxer's total purse exceeds \$5,000 per calendar year (instead of \$1,500 per year, as section 401 currently reads). In addition, the Commission adopted the proposed amendment to section 345, which currently provides that whenever a boxer receives a cut eye from a fair blow, intentional butt, or any other injury which the referee believes may incapacitate the boxer, the referee shall call into the ring the club physician for examination of the boxer. The proposed

amendment would specify that a mandatory time-out shall be called whenever the ringside physician examines a boxer. At this writing, the Commission's proposed amendments to sections 312, 345, and 401 await review and approval by OAL.

DCA Study of Neurological Examination. As of late December, the Department of Consumer Affairs' Central Testing Unit (CTU) had not completed its evaluation of the boxers' neurological exam program. In May 1991, the Commission agreed to ask CTU to evaluate the controversial program. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 60 and Vol. 11, No. 2 (Spring 1991) p. 55 for background information.)

LEGISLATION:

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

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

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

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

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

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

RECENT MEETINGS:

During his report at the Commission's November 15 meeting, Chair Ara Hairabedian mentioned the upcoming internal audit of the Commission to be conducted by the Department of Consumer Affairs' Internal Audits Section. The audit will include an examination of the Commission's administration of the professional boxers' pension plan, which was the subject of a recent Auditor General's report. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 60 for background information.) The Commission also discussed guidelines regarding fines and their relation to various regulatory offenses.

The Commission received a staff report on the condition of boxer Fernie Morales, who suffered a subdural hematoma and went into a coma after a fight on September 21. Although Morales' urine samples following the fight tested positive for alcohol, Commission staff recommended that no further action on this case be taken, since any boxer receiving such a head injury is automatically prohibited from boxing in California. However, the Commission directed its Medical Advisory Committee investigate the possibility that an alcohol rub/wrap could have been responsible for the positive urine samples



and whether further investigation of the incident is warranted.

FUTURE MEETINGS:

May 17 in San Francisco.

BUREAU OF AUTOMOTIVE REPAIR

Chief: James Schoning

(916) 366-5100

Toll Free Complaint Number:

1-800-952-5210

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

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

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

Under the direction of Chief James Schoning, the Bureau is assisted by a nine-member Advisory Board which consists of five public and four industry representatives. The terms of three of the Advisory Board members—Herschel Burke, Vincent Maita, and Alden Oberjuerge—expired in June 1991; they remain on the Board until replacements are appointed. The other

Advisory Board members are William Kludjian, Jack Thomas, Carl Hughett, Joe Kellejian, Louis Kemp, and Gilbert Rodriguez.

MAJOR PROJECTS:

Smog Check Program Examined at Interim Hearings. On December 16–18, the Senate Appropriations Committee and the Assembly Transportation Committee held joint interim hearings regarding the future of California's Smog Check Program. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 61; Vol. 11, No. 3 (Summer 1991) p. 60; and Vol. 11, No. 2 (Spring 1991) p. 58 for background information.)

Although California's program is considered by many to be the best in the nation, the state's severe air pollution problems persist. The federal government has addressed the issue in Congress' 1990 amendments to the federal Clean Air Act. During 1992, the U.S. Environmental Protection Agency (EPA) is slated to establish performance standards that all state smog check programs will be required to meet. Significant changes may have to be made to California's program; one purpose of the interim hearings was to formulate legislation to ensure that California meets EPA's new standards.

During the hearings, many experts testified that in order for California to meet the new, tougher standards, the state must require the use of more expensive and refined equipment able to diagnose increasingly sophisticated engines. According to Richard Wilson, director of EPA's Mobile Sources Division, only a "high-tech, high-volume, test-only" program will be able to afford the equipment and meet the standards. Whereas the BAR-90 test analyzer currently in use in California costs \$14,000–\$15,000 and is affordable by local gas stations participating in California's "decentralized" Smog Check Program, the equipment which EPA will probably require costs in excess of \$150,000. EPA believes that the new standards and testing equipment may require conversion of "decentralized" state smog check programs to "centralized" programs, in which the state operates the testing centers and runs the program (or contracts it out to a private company). The state-run program would simply test for emissions compliance; in contrast, existing California Smog Check Program stations test, repair, and retest. Proponents of a high-volume, test-only centralized program argue that the per-test cost will decrease to \$17, as opposed to California's existing \$32 per test average.

Although the per-test cost may decrease, the federal amendments require all states to adopt a cost limit of \$450 for emissions repairs on all vehicles, regardless of age or complexity. California's current repair limits range from \$50 for the oldest vehicles with simple emissions systems to a maximum of \$300 for newer, more complex vehicles. Further, the federal law requires vehicle owners to exceed the limit—not merely spend up to it—if necessary to achieve emissions reductions.

Other issues addressed by participants at the hearings include the following:

-Education of Mechanics. Participants noted that a major weakness of the California program (which would not be cured by a centralized program) is in its repair aspect. As vehicles become more sophisticated, the pool of expert mechanics who can accurately diagnose and fix them becomes smaller. Although SB 1997 (Presley) (Chapter 1544, Statutes of 1988) created a "second tier" of mechanics who are more qualified to work on high-tech vehicles, this alone has not solved the problem. The auto repair industry is calling for more emphasis on vocational training and educational programs for auto mechanics; thus, BAR may take a more active role in the precertification training of mechanics in the future.

-Tampering and Equipment Failures. Perhaps the biggest flaw in the California program is its lack of success in detecting vehicles which become high emitters between biennial inspections because their emission components either fail or are tampered with. Roadside inspection studies conducted by BAR show that there is a higher in-use rate of equipment malfunction and tampering than is found during the biennial inspection process. The legislature has directed BAR and the Air Resources Board (ARB) to study and report back on various methods of detecting high-emitting vehicles; that report is due in April.

SOR Reviews Smog Check Program. In late September, the Senate Office of Research (SOR) released *Reducing Automobile Pollution*, a report which focuses on BAR's Smog Check Program, identifying problems and making recommendations for improvement.

The report includes a brief overview of the current Smog Check Program. Federal law requires states to implement inspection and maintenance (I/M) programs in urban areas that fail to meet federal clean air standards. In response to this federal mandate,