



tion process.

FUTURE MEETINGS:

September 23-24 in Bakersfield.
November 18-19 in San Francisco.

BOARD OF CERTIFIED SHORTHAND REPORTERS

Executive Officer: Richard Black
(916) 445-5101

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

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

The Board consists of five members—three public and two from the industry—who serve four-year terms. The two industry members must have been actively engaged as shorthand reporters in California for at least five years immediately preceding their appointment.

On March 26, Governor Pete Wilson appointed Mary K. Steiner of El Segundo to the Board.

MAJOR PROJECTS:

Curriculum Revisions Update. On February 22, BCSR conducted a public hearing on its proposed amendments to section 2411 and 2420(a)(3), Division 24, Title 16 of the CCR, regarding its school curriculum requirements. [12:1 CRLR 99] BCSR's proposed amendments to section 2411 would increase the minimum amount of time required to be spent studying the fundamentals of English from 135 hours to 215 hours; eliminate the 1,320-hour requirement in the areas of shorthand, dictation, and transcription; decrease the required hours of medical terminology from 140 to 125; increase the time required to be spent studying legal terminology by five hours; and eliminate the requirement for courses on general office practice, thus deleting the current 40-hour requirement. Overall, the minimum number of academic hours a school is required to instruct in order to be approved by the Board would decrease from 1,950 to 600.

BCSR proposes to repeal section 2420(a)(3), which states specific pass percentages for each part of the Board's licensing examination. According to the

Department of Consumer Affairs' Central Testing Unit, such fixed points are contrary to the recommended practices of the testing profession.

Following the public hearing, BCSR adopted the proposed amendments. At this writing, the Board is preparing the rulemaking file for review by the Director of the Department of Consumer Affairs; if approved, the rulemaking file will be forwarded to the Office of Administrative Law for review and approval.

LEGISLATION:

AB 2743 (Lancaster), as amended April 9, would revise the definition and the authorized activities of a shorthand reporting corporation, delete certain filing requirements, and specify the professional corporate status of a shorthand reporting corporation. Also, this bill would make technical and corrective changes in provisions relative to the suspension or license revocation of shorthand reporters.

[A. Floor]

RECENT MEETINGS:

At its May 7 meeting in San Francisco, BCSR discussed suggestions submitted by public and private school associations regarding the grading of the transcription portion of the CSR examination. The Board took the suggestions under consideration and was expected to adopt some or all of them at its June 20 meeting in San Diego.

FUTURE MEETINGS:

August 15 in Santa Clara.
November 19 in Los Angeles.

STRUCTURAL PEST CONTROL BOARD

Registrar: Mary Lynn Ferreira
(916) 924-2291

The Structural Pest Control Board (SPCB) is a seven-member board functioning within the Department of Consumer Affairs. The SPCB is comprised of four public and three industry representatives. SPCB's enabling statute is Business and Professions Code section 8500 *et seq.*; its regulations are codified in Division 19, Title 16 of the California Code of Regulations (CCR).

SPCB licenses structural pest control operators and their field representatives. Field representatives are allowed to work only for licensed operators and are limited to soliciting business for that operator. Each structural pest control firm is required to have at least one licensed operator, regardless of the number of

branches the firm operates. A licensed field representative may also hold an operator's license.

Licenses are classified as: (1) Branch 1, Fumigation, the control of household and wood-destroying pests by fumigants (tenting); (2) Branch 2, General Pest, the control of general pests without fumigants; (3) Branch 3, Termite, the control of wood-destroying organisms with insecticides, but not with the use of fumigants, and including authority to perform structural repairs and corrections; and (4) Branch 4, Roof Restoration, the application of wood preservatives to roofs by roof restorers. Branch 4 was enacted by AB 1682 (Sher) (Chapter 1401, Statutes of 1989), and became effective on July 1, 1990. An operator may be licensed in all four branches, but will usually specialize in one branch and subcontract out to other firms.

SPCB also issues applicator certificates. These otherwise unlicensed individuals, employed by licensees, are required to take a written exam on pesticide equipment, formulation, application, and label directions if they apply pesticides. Such certificates are not transferable from one company to another.

SPCB is comprised of four public and three industry members. Industry members are required to be licensed pest control operators and to have practiced in the field at least five years preceding their appointment. Public members may not be licensed operators. All Board members are appointed for four-year terms. The Governor appoints the three industry representatives and two of the public members. The Senate Rules Committee and the Speaker of the Assembly each appoint one of the remaining two public members.

MAJOR PROJECTS:

SPCB to Define the Branch 4 Classification Through Legislation. On January 21 and March 30, the Branch 4 Committee met to continue its task of defining and clarifying the Branch 4 (Roof Restoration) classification, which became effective on July 1, 1990. [12:1 CRLR 100] At the January meeting, the Committee agreed to recommend to SPCB that the Board sponsor legislation to repeal Branch 4 from the Board's scope of licensure; amend Business and Professions Code section 8556 to allow an exemption for properly licensed contractors to apply wood preservatives to wood shake and shingle roofs; and amend statutes to state that Branch 3 licensees are not required to inspect roof coverings but must report any condition on the roof covering that is observed by the inspecting licensee.



Additionally, the Committee agreed that the legislation incorporate the following provisions: (1) a wood-destroying pest control inspection report must disclose that the exterior of the roof was not inspected; (2) any person or entity who performs an inspection of the roof acting in the capacity of a Branch 4 licensee, or its equivalent, shall disclose that any work performed or identified will not improve the water-tightness of the roof; (3) any person or entity who performs an inspection of the roof acting in the capacity of a Branch 4 licensee, or its equivalent, shall continue to be precluded from inspecting or performing work during the time a property is listed for sale, lease, or exchange; and (4) if the Contractors State License Board (CSLB) or other state agency or department can demonstrate that it can offer similar consumer protection as provided by SPCB, and if CSLB is willing to accept the licensing of Branch 4 roof restorers, such transfer should occur as soon as practicable.

At its March 30 meeting, the Committee discussed AB 3327 (Sher), sponsored by the California Association of Realtors (CAR), which (at that time) would have required the written inspection report that must be completed following a Branch 4 inspection to be prepared and delivered within 24 hours of the inspection, and that the report contain a statement indicating that corrective measures would not improve the water-tightness of the roof and that the person may contact a licensed roofing contractor. The Committee agreed to request that CAR amend AB 3327 to—among other things—give Branch 3 registered companies the option of inspecting the wood roof covering for infection or infestation with a required disclosure that the exterior surface of the roof was not inspected to determine water-tightness; give Branch 3 registered companies the option of not inspecting the exterior surface of the roof and so disclose that fact; define water-tightness; and require Branch 4 companies to be licensed as C-39 specialty contractors, providing a delayed implementation date to allow a grandparenting period to permit current Branch 4 licensees to obtain that licensure.

At its May 5 meeting, SPCB unanimously agreed to support AB 3327 if it is amended to incorporate the recommendations of the Branch 4 Committee. On May 13, many of the requested amendments were made to AB 3327 (*see infra* LEGISLATION).

"Super Termites" Found in San Diego County. In 1991, the Pest Control Operators of California issued a warning about Formosan termites, nicknamed

"super termites" due to their strong mandibles which enable them to tear through soft metal in their pursuit of wood, and their ability to multiply in greater numbers and elude extermination more deftly than normal termites. In response, state agricultural officials downplayed the threat, stating that the state's climate is too arid to allow the spread of the pest. However, in March, a Formosan termite colony estimated to be a decade or more old was discovered in a La Mesa home, marking the first major infestation of the pest. In spite of the finding, officials from the state Department of Food and Agriculture and San Diego County continue to minimize the potential threat, insisting that the Formosan is a "tropical termite" and that California's climate is not suited to it. At its May 5 meeting, SPCB discussed the infestation, noting that licensees plan to apply experimental pesticides used successfully in Florida to eliminate the colony.

DPR Adopts Emergency Regulations Regarding Fumigants. On April 14, the California Environmental Protection Agency's Department of Pesticide Regulation (DPR) adopted new section 6455 and amendments to section 6454, Titles 3 and 26 of the CCR, regarding the use of methyl bromide and sulfuric fluoride in the fumigation of structures. The revisions—which were adopted on an emergency basis—generally increase the length of time occupants must wait before re-entering the fumigated structure. If methyl bromide is used, the waiting period may be up to seven days, depending on whether fans are used to help ventilate the structure, the amount used, and results of air tests to determine how much gas, if any remains; if the more expensive sulfuric fluoride is used, the waiting period is significantly less, usually about one day. Also, the regulations require that lower levels of methyl bromide be reached before a building is cleared for re-entry. Further, DPR's regulations require that the SPCB licensee have in his/her possession at the fumigation site a four-page Structural Fumigation Fact Sheet, available from DPR, which must be signed by specified individuals. (*See infra* agency report on DPR for related discussion.)

At SPCB's May 5 meeting, DPR Director James Wells presented drafts of the fact sheet and sought comments and suggestions from those present. The subject of the most debate was a provision which states that for information about alternative pest control methods, consumers should call SPCB's consumer information office or the county office of the University of California Cooperative Ex-

tension. UC Berkeley Extension Entomologist Vernard Lewis expressed concern that he and the one other UC entomologist would be inundated with telephone calls and noted that DPR should have sought permission or at least notified them that they were being listed as consumer resources. Because the emergency regulations are currently in effect, Wells stated that the fact sheets would be revised and distributed immediately.

Board Proposes New Regulatory Changes. At its May 5 meeting, SPCB agreed to seek regulatory amendments to require that the following language appear on "separated reports" used by licensees: "This is a separated report which is defined as Section I/Section II conditions evident on the date of inspection. Section I contains items where there is evidence of active infestation, infection, or conditions that have resulted in or from infestation or infection. Section II items are conditions deemed likely to lead to infestation or infection but where no visible evidence of such was found. Further inspection items are defined as recommendations to inspect area(s) which during the original inspection did not allow the inspector access to complete his inspection and cannot be defined as Section I or Section II."

The Board also affirmed its decision to amend section 1948, Title 16 of the CCR, to increase the pesticide stamp fee from \$6 to \$7. [12:1 CRLR 101] Finally, the Board directed the Technical Advisory Committee to draft proposed language to adopt into regulation the provisions of Specific Notice III-3-89, concerning inspection practices of common unit developments. At this writing, these proposed changes have not been published in the *California Regulatory Notice Register*.

Barricading Doorways Without Doors. Business and Professions Code section 8505.7 requires all entrances of a fumigated structure to be locked, barricaded, or otherwise secured against entry until the structure has been declared safe for reoccupancy. According to the Board, structures without doors are occasionally being fumigated without proper barricading of the doorways; this can pose a danger if not properly secured during a fumigation. Procedures for securing these doorways are currently described in SPCB's Specific Notice I-3-89. On January 3, SPCB published notice of its intent to amend section 1970.3, Title 16 of the CCR, to clarify through regulation the requirements for barricading doorways without doors.

On February 21, SPCB conducted a public hearing on the proposed amendments. At that hearing, Board member



James Steffenson stated that Specific Notice I-3-89 and every other SPCB Specific Notice should either be formally adopted as Board regulations or rescinded. Because the proposed amendments to section 1970.3 failed to encompass the entirety of Specific Notice I-3-89, the Board agreed to postpone action until the proposed language is modified as appropriate; SPCB is expected to conduct a public hearing on the revised version of section 1970.3 at a future meeting.

Alternate Treatment Regulation Approved. On March 30, the Office of Administrative Law (OAL) approved SPCB's proposed amendments to section 1991, Title 16 of the CCR, which specifies report requirements under Business and Professions Code section 8516(b)(9). [11:3 CRLR 109]. Specifically, the amendments—which became effective on April 30—revise section 1991(a)(8) to provide that one of the recommendations for corrective measures for conditions found shall be to exterminate all reported wood-destroying pests. If evidence indicates that wood-destroying pests extend into an inaccessible area(s), the SPCB licensee shall recommend one of the following measures:

- enclose the structure for an all-encompassing treatment utilizing materials listed in Business and Professions Code section 8505.1; or

- use another all-encompassing method of treatment which exterminates the infestation of the structure; or

- locally treat by any or all of the following: (1) exposing the infested area(s) for local treatment; (2) removing the infested wood; or (3) using another method of treatment which exterminates the infestation.

The new regulation also provides that when a complete inspection is performed, a recommendation must be made to remove or cover all accessible evidence of wood-destroying pests, such as pellets, frass, and beetle holes. When a limited inspection is performed, the inspection report must state that the inspection was limited to the area(s) described and diagrammed. If a recommendation is made for treatment of wood-destroying pests, a separate recommendation shall be made for the evidence of such pests to be removed or covered in the limited areas. The limited inspection report shall include a recommendation for further inspection of the entire structure and that all accessible evidence of wood-destroying pests be removed or covered.

On March 9, during OAL's review of the proposed amendments, former SPCB member James McElroy requested in writ-

ing that the Board withdraw the rulemaking file from OAL. Among other things, McElroy made the following contentions in support of his request:

- The amendments do not comply with Chapter 1, Title 1 of the CCR.

- During the public hearing on the proposal, the Board Chair did not advise speakers of the six standards by which OAL reviews proposed regulatory revisions.

- The amendments fail to satisfy the "necessity" standard of Government Code section 11349(a); according to McElroy, the rulemaking file contained "no supporting facts, studies, expert opinion, or other information to indicate the efficacy and/or safety of the new technology" authorized for use under the amendments.

- The amendments fail to satisfy the "clarity" standard of Government Code section 11349(a); according to McElroy, the phrases "all-encompassing method of treatment of the structure" and "using technology which eradicates the infestation" are unclear and could reasonably and logically be interpreted to have more than one meaning.

- During the public hearing, SPCB's legal counsel was not present.

On March 24, SPCB Registrar Mary Lynn Ferreira responded to McElroy's request, stating that "[t]here is no statutory authority to petition the withdrawal of a rulemaking file from OAL. Since OAL has not yet approved the proposed amendment to section 1991(a)(8), there is nothing upon which the Board can act." On March 30, McElroy responded to Ferreira, agreeing that no statutory authority exists in support of his petition for the withdrawal of the rulemaking file. However, McElroy pointed out that an April 1990 Department of Consumer Affairs (DCA) document entitled "Procedures for Adopting, Amending, and Repealing Regulations" states that "[i]f you discover a major problem with your rulemaking file after it has been submitted to OAL, you may request that the file be returned to you. An oral request must be reduced to writing no later than one week from the date of the request. OAL may no longer request withdrawal as an alternative to disapproval." Based on DCA's own written policy, McElroy reiterated his request that the Board withdraw the proposed amendments.

On April 6, Ferreira responded to McElroy, informing him that the DCA document "is not an authority reference for interested persons to request the withdrawal of a rulemaking file. The manual is used as instructions to departmental staff when preparing a

rulemaking file. The time and place for an interested person to voice objections to an amendment, adoption or repeal of a regulation is at the public hearing." Ferreira noted McElroy's objections "were recorded at the public hearing and are part of the rulemaking file." Ferreira also informed McElroy that OAL had approved the amendments to section 1991(a)(8) on March 30 and stated that "[t]his means that OAL has determined that the rulemaking file meets the required standards which include necessity and clarity." Since the amendments were then in effect, Ferreira agreed to treat McElroy's request as a petition to repeal the amendments pursuant to Government Code section 11347, and stated that the matter would be placed on the Board's May 5 agenda.

At the May 5 meeting, McElroy contended that because the amendment allows the use of alternative methods of pest control, in addition to traditional fumigation and local treatment, the use of various "unproven" methods will place consumers at risk. The Board responded that the proposal had undergone lengthy debate and that repealing the newly-adopted rule would deprive operators and consumers of choices regarding methods of pest control. Board member James Steffenson opined that it is not SPCB's role to judge the various methods used; rather, the marketplace would determine the efficacy of those techniques. Following discussion, the Board voted 5-1 to deny McElroy's petition.

Update on Other Proposed Regulatory Changes. The following is a status update on other SPCB rulemaking proposals reported in detail in previous issues of the *Reporter*:

- Limited Reports Required for Structures that Touch or Connect. A Board subcommittee continues to revise proposed new section 1990(c), Division 19, Title 16 of the CCR. [12:1 CRLR 100] As originally proposed, section 1990(c) would provide that "[a]ny wood structure that touches or connects to the structure being inspected must be inspected or stated as not inspected in a 'limited report.' This includes, but is not limited to, decks, steps, patio covers, trellises, sheds and workshops. If these structures do not touch or connect to the structure being inspected, they may be excluded from the scope of inspection. If fences and trellises are separated from the main structure by stucco, metal flashing, or other non-wood barriers, they may be excluded from the scope of the inspection." Due to the amount of criticism received regarding the proposed language, SPCB is revising its proposal and expects to conduct a public



REGULATORY AGENCY ACTION

hearing on the new version later this year.

-Notice of Re-Entry. At its February 21 meeting, the Board held another public hearing on its proposed adoption of new section 1973, Title 16 of the CCR. Noticited after modifications made in response to public comments received at SPCB's September and December 1991 meetings, proposed new section 1973 would require that, "[f]ollowing a fumigation, the licensee must personally release the property for occupancy by posting a Notice of Re-Entry." The form must be no smaller than 8-1/2" by 11" and be printed in red lettering on a white background. A previous version of the proposed section would have allowed a licensee to release the property for occupancy by personally returning the key(s) of the structure being fumigated to the owner/occupant/agent of the property. [12:1 CRLR 100; 11:4 CRLR 112] The contents of the revised notice would state in English and Spanish the date when the building will be safe for re-entry; the chemical names of the fumigants that were used; the warning agent used (chloropicrin); and the Branch 1 licensee's name, license number, and company name, address, and telephone number. When SPCB first discussed the contents of the notice on September 5, the Board had voted to refer to the fumigant sulfuryl fluoride by the DowElanco tradename of "Vikane." While not completely avoiding the appearance of endorsement, the current format presents the tradename in small type just below the chemical name.

Following the February 21 public hearing, SPCB unanimously adopted proposed section 1973, subject to minor modifications; staff released the modified language for an additional fifteen-day public comment period. At this writing, staff awaits approval of the Spanish translation before submitting the rulemaking package to OAL for review and approval.

-Standard Notice of Work Completed and Not Completed. On March 10, SPCB released a slightly modified version of proposed new section 1996.2, which would revise the Board's "Standard Notice of Work Completed and Not Completed" form and require the use of the form, which has long been in use by the pest control industry. This section still awaits review and approval by OAL. [12:1 CRLR 100]

-Filing Fee Increases. On February 21, SPCB conducted a public hearing on its proposed amendments to section 1997, Title 16 of the CCR, which would increase the fee for Inspection Report filings and Notice of Work Completed filings from \$1 to \$2. [12:1 CRLR 101] Following the

hearing, the Board adopted the proposed amendments, which still await review and approval by OAL.

-Registered Companies. The Board's amendment to section 1911, Title 16 of the CCR, which deletes the requirement that a registered company notify the Board of a change of address within ten days, was approved by OAL on May 19. SPCB's proposed amendment to section 1913, which replaces the phrase "operator's license" with "company registration certificate," was approved by OAL on May 13. The Board's proposed amendment to section 1936, which would add SPCB's license application forms to the regulation, is currently undergoing review by OAL. SPCB staff is still preparing the rulemaking file on its proposed amendment to section 1937.16, which would subject Branch 4 registered companies to the provision which requires Branch 1 and Branch 3 registered companies to use a "Notice to Owner" form, as specified by the Board. [12:1 CRLR 101]

-Reinstatement of License Renewal Fees. SPCB's proposed amendments to section 1948, which reinstate license renewal fees to maintain the Board's reserve fund and clarify that the certified applicator examination fee is required for each branch in which an examination is taken, were approved by OAL on May 18. [12:1 CRLR 101]

-Use of the Term "Fungicide." SPCB's proposed amendments to sections 1970.4 and 1983 would add the term "fungicide" to numerous provisions which currently relate to the use of pesticides. [12:1 CRLR 101] At this writing, staff is still preparing the rulemaking file for submission to OAL.

-Inspection Report Format and Content Requirements. SPCB's proposed adoption of section 1990.1, which would establish Branch 4 inspection report format and content requirements under Business and Professions Code sections 8516.1(b) and 8516.1(c)(1)-(8), still awaits review and approval by OAL. [12:1 CRLR 101]

LEGISLATION:

AB 3327 (Sher), as amended May 13, would make a number of amendments to the Structural Pest Control Act regarding inspection report requirements. For example, existing law provides that the inspection report regarding wood-destroying pests by a registered structural pest control company or licensee, other than a Branch 4 licensee, shall contain certain information; roof leaks are to be reported as conditions usually deemed likely to lead to infestation or infection. This bill

would, in addition, require that report to contain either a statement indicating that the exterior surface of the roof was not inspected, and that if a determination of water-tightness is desired, the consumer should contact a licensed roofing contractor for that determination; or a statement that the exterior surface of the roof was inspected to determine whether or not wood-destroying pests or organisms are present.

Existing law requires all Branch 4 registered pest control companies to retain for three years all field reports from which a verbal or written estimate of or recommendations for work are made. A written inspection report must be prepared and delivered to the person requesting an inspection. Existing law requires a copy of the inspection report to be filed with SPCB at the time the report is delivered or not later than five working days after the date the inspection is made. This bill would delete the references to Branch 4 licenses and provide instead for licensure and regulation of wood roof cleaning and treatment registered companies, as specified. After July 1, 1993, the bill would require those companies to be licensed contractors. This bill would also require that written inspection report to be prepared and delivered to the person requesting the report within five working days of the inspection if a contract is executed to perform the work. The bill would require a copy of the report to be filed with the Board at the time the report is delivered or not later than five working days after the contract is executed to perform corrective work.

Finally, this bill would require the written inspection report to contain a statement providing that corrective measures will not improve the water-tightness of the roof and that the consumer may contact a licensed roofing contractor, as specified. The bill would also require at the time the report is ordered that the person or entity be informed by the licensee that a separated report is available, as specified. [A. Floor]

AB 3255 (Frazee). Existing law provides that a company registered with SPCB shall, upon request when inspection of a structure is made, prepare a certification containing specified statements relating to the absence or presence of wood-destroying pests or organisms. As amended May 13, this bill would provide that when an inspection has disclosed no infestation or infection, the statement contained in the certification shall state that no evidence of active infestation or infection was found in the visible and accessible areas. This bill would also allow the



partner or officer of a registered company to be licensed either as an operator or as a field representative. [12:1 CRLR 101] [A. Floor]

RECENT MEETINGS:

At SPCB's February 21, staff reported that Governor Wilson had abandoned his plan to appropriate \$244,000 from the Structural Pest Control Research Fund to help alleviate the state's financial deficit. [12:1 CRLR 100] The Board expressed appreciation to representatives of the Pest Control Operators of California, who successfully explained to administration officials that the fund is for pest control research only, and does not comprise part of the Board's reserve fund.

Also at its February meeting, the Board agreed to include a rules and regulations course in licensees' continuing education requirements. Possible areas of study include the Structural Pest Control Act, as well as regulations adopted by the Board, Cal-OSHA, Cal-EPA, and the Department of Pesticide Regulation.

At SPCB's May meeting, the Board reviewed the Technical Advisory Committee's proposed Glossary of Branch 3 terms, such as "inaccessible areas," "limited report," and "drywood termite." The Board agreed to include the glossary in the Branch 3 consumer brochure.

FUTURE MEETINGS:

August 7 in San Diego.

TAX PREPARER PROGRAM

Administrator: Jacqueline Bradford
(916) 324-4977

Enacted in 1973, abolished in 1982, and reenacted by SB 1453 (Presley) effective January 31, 1983, the Tax Preparer Program registers approximately 19,000 commercial tax preparers and 6,000 tax interviewers in California, pursuant to Business and Professions Code section 9891 *et seq.* The Program's regulations are codified in Division 32, Title 16 of the California Code of Regulations (CCR).

Registrants must be at least eighteen years old, have a high school diploma or pass an equivalency exam, have completed sixty hours of instruction in basic personal income tax law, theory, and practice within the previous eighteen months, or have at least two years' experience equivalent to that instruction. Twenty hours of continuing education are required each year.

Prior to registration, tax preparers must deposit a bond or cash in the amount of

\$2,000 with the Department of Consumer Affairs. Registration must be renewed annually, and a tax preparer who does not renew his/her registration within three years after expiration must obtain a new registration. The initial registration fee is \$50 and the renewal fee is \$40.

Members of the State Bar of California, accountants regulated by the state or federal government, and those authorized to practice before the Internal Revenue Service are exempt from registration.

An Administrator, appointed by the Governor and confirmed by the Senate, enforces the provisions of the Tax Preparer Act. Under the Act, the Administrator is supposed to be assisted by a nine-member State Tax Preparer Advisory Committee which consists of three registrants, three persons exempt from registration, and three public members. All members are appointed to four-year terms. However, the last committee members' terms expired on December 31, 1988; no members have ever been appointed to replace them.

On March 19, the Senate approved Governor Wilson's appointment of Jacqueline Bradford as Administrator of the Tax Preparer Program.

MAJOR PROJECTS:

Program Proposes Fee Increase. Business and Professions Code section 9891.42 authorizes the Program to set the annual renewal fee for tax preparers and tax interviewers at no more than \$50 per registrant and the fee for an additional tax preparer location at \$25. Currently, section 3230, Division 32, Title 16 of the CCR, sets the renewal fees for tax preparers and interviewers at \$40; existing regulations do not specify the fee for a branch office.

On April 3, the Program published notice of its intent to amend section 3230 to increase the renewal fees for tax preparers and interviewers to \$50. The amendments would also set the branch office fee at \$25. The Program was scheduled to conduct a public hearing on the proposed changes on May 19 in Sacramento.

LEGISLATION:

AB 683 (Moore), as amended April 1, would establish a Legal Access Pilot Program and Advisory Commission within the Tax Preparer Program to, among other things, register and regulate nonlawyers providing legal assistance (sometimes called "legal technicians" or "independent paralegals") [11:4 CRLR 51, 211-12]; provide that the pilot program be implemented using existing Tax Preparer Pro-

gram administrative and support staff, and become operative January 1, 1993; provide that the registration requirement and duties imposed upon registrants would become operative January 1, 1994 and sunset on January 1, 1999; provide for an advisory commission to advise the Program Administrator, as specified; and specify the duties and functions of the Program Administrator and Advisory Commission. [S. Jud]

SB 2044 (Boatwright), as amended April 2, would declare legislative findings regarding unlicensed activity and authorize all DCA boards, bureaus, and commissions, including the Tax Preparer Program, to establish by regulation a system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of that board, bureau, or commission. This bill would also provide that the unlicensed performance of activities for which Tax Preparer registration is required may be classified as an infraction punishable by a fine not less than \$250 and not more than \$1,000. SB 2044 would also provide that if, upon investigation, the Program 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 Program to offer or perform those services, the Program may issue a citation containing an order of correction which requires the violator to cease the unlawful advertising and notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

Existing law requires that, as a condition of the Program's acceptance of an assurance of voluntary compliance by a registrant accused of a disciplinary offense, a registrant must pay all investigative costs actually incurred in discovering the alleged violations, not to exceed \$500. Existing law requires a registered tax preparer to post a \$2,000 bond and provides that the total bond required for any single tax preparer and associated interviewers not exceed \$50,000; existing law also limits the registrant fees paid by a single tax preparer and associated tax interviewers to \$1,500 per calendar year. SB 2044 would delete the investigative costs requirement; increase the amount of the bond for a tax preparer to \$50,000 and set the maximum total bond for a single tax preparer and associated tax interviewers at \$125,000; and remove the annual \$1,500 cap on registrant fees paid by a single tax preparer and associated tax