



REGULATORY AGENCY ACTION

44-45 for background information.)

On December 14, the Board held a hearing in Sacramento to consider further proposed changes to the same regulations (with the exception of section 116). The proposed amendments provide for the administration of the ARE twice per year beginning in 1990; further specify the transition procedure from the CALE to the ARE; and provide for a 12.5% increase in the required fee for the exam starting in 1991. There was no public comment on the proposals at the hearing; the Board was scheduled to adopt the amendments at its January 27 meeting.

Licensing Examination. In June, BAE approved its Executive Committee's recommendation to develop a supplemental oral examination to test content areas not tested by the ARE but required in California. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 43 for background information.) This task has not yet been awarded to a private vendor. BAE has revised the estimated completion date of this project and now plans to have the examination ready to administer for the first time in January 1991.

LEGISLATION:

Three bills affecting BAE were introduced at the First Extraordinary Session of the legislature during the beginning of November:

ABX 24 (Eastin) and **SBX 16 (Roberti)**. Under existing law, acting as an architect without appropriate licensure is a misdemeanor. These bills would make this and related offenses punishable as either a misdemeanor or a felony, as specified, if committed in connection with the offer or performance of services for repair of damage caused to a structure by natural disasters for which a specified state of emergency is proclaimed by the Governor or for which a specified emergency or major disaster is declared by the President. SBX 16 contains language which states that an intent to defraud must be shown in order to make these provisions applicable. ABX 24 is pending on the Assembly floor, and SBX 16 is pending in the Senate Appropriations Committee.

SBX 46 (Lockyer) would provide that an architect or engineer who voluntarily, without compensation or expectation of compensation, provides structural inspection services at the scene of a declared national, state, or local emergency caused by a major earthquake at

the request of a public official, public safety officer, or city or county building inspector acting in an official capacity shall not be liable in negligence for any personal injury or property damage caused by the good faith but negligent inspection of a structure used for habitation or owned by a public entity for structural integrity or nonstructural elements affecting health and safety. This immunity would apply to inspections within 90 days of the earthquake, and would not apply to gross negligence or willful misconduct. This bill passed the Senate on January 8, and is awaiting committee assignment in the Assembly at this writing.

The following is a status update of bills described in detail in CRLR Vol. 9, No. 4 (Fall 1989) at page 43:

AB 1789 (Cortese) would give architects, engineers, and land surveyors a specified design professional's lien on real property for which a work of improvement is planned, and for which a specified governmental approval is obtained. This bill is pending in the Senate Committee on Insurance, Claims, and Corporations.

AB 459 (Frizzelle), which would have provided that a previously licensed individual may renew his/her license at any time after license expiration upon payment of applicable fees and satisfaction of continuing education requirements, was dropped by its author.

AB 1005 (Frazee) would require architects to affix on plans a stamp bearing the architect's name, license number, the term "licensed architect," and the renewal date of the license. This bill is pending in the Senate Business and Professions Committee.

FUTURE MEETINGS:

To be announced.

ATHLETIC COMMISSION

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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 Chapter 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 Bill Malkasian, Raoul Silva, Ara Hairabedian, P.B. Montemayor, M.D., Jerry Nathanson, Thomas Thaxter, M.D., Charles Westlund, and Robert Wilson.

The Commission has sweeping powers to license and discipline those within its jurisdiction. The Commission licenses promoters, booking agents, matchmakers, referees, judges, managers, boxers, martial arts competitors, and wrestlers. 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:

Regulatory Changes. The Commission was scheduled to hold a regulatory hearing on January 19 in San Diego on two proposed changes to its regulations in Chapter 2, Title 4 of the CCR. First, the Commission proposes to amend section 220, which specifies that contracts between boxers and managers shall be executed on printed forms approved by the Commission, and that the Commission may approve a contract that is not on its printed form if it is entered into in another jurisdiction by non-residents of California. The proposed amendment would delete the phrase referring to non-residents.

The Commission also proposes to adopt new section 279. Existing regulations do not provide for the copying of any videotape made of a professional fight. Section 279 would provide that the promoter shall obtain the name, address, and telephone number of any person who records all or part of a boxing contest on videotape; the promoter shall be responsible for providing the Commission with a copy of any videotape made of a boxing contest.

At its November 17 meeting in Sacramento, the Commission amended section 330 of its regulations to: (1) include as "boxing officials" physicians



in attendance at a match at the Commission's direction and those appointed by a club or the Commission to perform any examination of boxers; and (2) provide that the Commission shall assign the physician who attends a boxing match or exhibition. Some Commission-appointed physicians have terminated their contracts with the state because their malpractice insurance carriers do not provide coverage for examinations of professional athletes. These amendments provide Commission-appointed attending and examining physicians with the rights of representation and immunities provided to public employees under the Government Tort Claims Act, Government Code section 820 *et seq.* At this writing, Commission staff is preparing the rulemaking package on this regulatory change for submission to the Office of Administrative Law.

Senate Oversight Hearings. On October 25, the Senate Business and Professions Committee conducted an oversight hearing on the Department of Consumer Affairs and selected boards, including the Athletic Commission. The Committee requested information on the Commission's plans to implement SB 599 (Montoya) (which requires the reporting of injuries and knockouts which occur outside Commission-sanctioned events, and allows the Commission to establish standards for evaluating a professional boxer's ability) and the impact of deregulation of professional wrestling under AB 1040 (Floyd). (See CRLR Vol. 9, No. 4 (Fall 1989) p. 43 and Vol. 9, No. 3 (Summer 1989) p. 49 for background information.) Implementation of SB 599 may be problematical for the Commission, because its budget change proposal for \$47,000 to assure compliance with SB 599 was denied. All requests for increases from the general fund were denied because of the earthquake damage in northern California. The Commission's response to AB 1040 and its deregulation of professional wrestling is discussed below.

Joint Meeting With Nevada Athletic Commission. On October 20, the Commission held a joint meeting with the Nevada Athletic Commission in South Lake Tahoe to foster cooperation and uniformity between the two states. Several rules and policies were discussed. First, California is considering the adoption of Nevada's rule requiring each boxer to have an extra mouthpiece

at the fight. Nevada is considering the adoption of California's rule that it is a foul for a boxer to intentionally spit out his mouthpiece, and the referee has authority to decide whether to disqualify the boxer. Second, the commissions discussed drug policy and testing procedures. Drug testing appears to be similar in both states, with one exception. Nevada requires that fighters test negative for HIV; California law, however, prohibits HIV testing as a condition of employment, or in this case licensure. Regarding reciprocity, both states honor each other's medical and other suspensions and disciplinary actions.

Deregulation of Wrestling. AB 1040 (Floyd) was signed by the Governor and, except for the 5% tax on the gross sales of all professional wrestling matches, completely deregulates professional wrestling as of January 1, 1990. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 43 and Vol. 9, No. 3 (Summer 1989) p. 49 for background information.) The Commission will have to repeal and amend several of its regulations to comply with the statutory changes.

The Commission feels that complete divestiture by the legislature of its regulation of wrestling—a program originally created by the initiative process—may raise constitutional problems. As a result, the Commission has instructed its athletic inspectors to keep accurate records of their observations at each wrestling show and to keep a complaint log. At its December 15 meeting, the Commission voted to submit a budget change proposal to secure funds to challenge the new law.

Martial Arts Committee. At its November 17 meeting, the Commission appointed an advisory committee for two years pursuant to section 18769 of the Business and Professions Code. The committee was appointed to help the Commission formulate rules and regulations to assure safe and fair competition in the martial arts, as no consensus currently exists on how martial arts contests should be conducted. The committee, which is composed of nine members experienced in the martial arts, began its duties on December 1. The members are: Tony Thompson, Rebecca Byrne, Dan Rodarte, Sman Tonyala, Nelson Hamilton, Howard Hanson, James Wong, George Yoshinaga, and Greg Hampton.

RECENT MEETINGS:

At its meeting on October 20 in

South Lake Tahoe, the Commission reported that the Los Angeles County Superior Court refused to grant Gerardo Velazquez's petition for a writ of mandate on his claim to the California Junior Welterweight Title; and reaction to its new policy of withdrawing from boxing organizations which sanction championship contests has been minimal. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 44 for background information.)

Also at the October meeting, the Commission granted a boxing license to Trevor Berbick, a boxer over the age of 36, provided he completes the application process. Berbick has a ring record of 31 wins (23 by knockout), five losses, and one draw.

At its December meeting in Sacramento, the Commission restated its policy on the receipt of free tickets to boxing and martial arts events by commissioners. Tickets received by Commission members and staff for their own use are not reportable as gifts. However, extra tickets received for guests and worth more than \$50 must be reported on annual conflict of interest reports. Promoters determine ticket value by the price for ringside seats at each event. If a commissioner receives more than \$250 worth of tickets from a promoter in a calendar year, that fact must be disclosed before that commissioner may vote on a matter involving that promoter.

FUTURE MEETINGS:

April 20 in Sacramento.
May 18 in San Diego.
June 15 in Los Angeles.
July 20 in San Francisco.
August 17 in Los Angeles.
September 21 in San Diego.

BUREAU OF AUTOMOTIVE REPAIR

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