vent the generation of water pollutants. This bill died after being rejected by the Assembly Ways and Means Committee on August 29.

SB 2004 (Keene), as amended August 28, makes numerous significant and technical clean-up changes to provisions established in SB 299 (Keene) (Chapter 1442, Statutes of 1989), which established two programs intended to assist owners or operators of petroleum underground storage tanks to upgrade, replace, remove, and/or clean up their tanks, in compliance with state and federal underground storage tank (UST) laws.

Under one of these programs, administered by WRCB, owners/operators of USTs are required to pay an annual maintenance fee of $200 for each UST issued a permit, and to maintain the financial ability to deal with the consequences of leaking tanks. They must establish the ability to finance at least $50,000 in clean-up activities through insurance, a surety bond, guarantees, or a letter of credit. If the owner/operator carries out a clean-up, he/she may claim reimbursement from the Underground Storage Tank Clean-up Fund (USTCF), administered by WRCB, for clean-up costs which exceed $50,000. Under SB 299, the maximum reimbursement for each clean-up was $950,000.

This urgency bill repeals the $200 annual maintenance fee, and instead requires owners/operators to pay a storage fee of six mills (.6 cents) per gallon of fuel stored in the tank. It also decreases the level of financial responsibility required to be obtained to $10,000 for each occurrence, thus increasing the reimbursement level to $990,000. Among other things, this bill also deletes the current 5% cap which limits the amount of funds which may be appropriated to WRCB for its administrative expenses in operating this program. This bill was signed by the Governor on September 26 (Chapter 1366, Statutes of 1990).

SB 1999 (Bergeson), as amended August 23, requires WRCB to conduct a pilot study to determine the feasibility of the use of wetlands treatment in improving water quality in the New River. Although the Governor signed this bill on September 24 (Chapter 1322, Statutes of 1990), he deleted the $100,000 appropriation which would have enabled WRCB to carry out this function.

SB 415 (Torres), which would have revised the provision regarding civil and criminal penalties in Proposition 65, died after being rejected by the Assembly Ways and Means Committee on August 28.

LITIGATION:

In *United States and California v. City of San Diego*, No. 88-1101-B (S.D. Cal.), city, state, and federal officials have ratified a settlement agreement, under which the City of San Diego is required to have a new sewage water reclamation system fully operational by December 31, 2003. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 195; Vol. 9, No. 4 (Fall 1989) p. 125; Vol. 9, No. 3 (Summer 1989) p. 116; and Vol. 9, No. 2 (Spring 1989) p. 110 for extensive background information on this case.) The agreement to proceed with a secondary sewage treatment facility was based on the 1972 federal Clean Water Act, which requires cities such as San Diego to install a secondary treatment plant.

Despite the settlement agreement, at an August 29 hearing, U.S. District Court Judge Rudi M. Brewster questioned the rationale behind the $2.8 billion expenditure to build the new secondary sewage plant, stating that he had become disturbed by the level of scientific opposition to the plan. For example, Roger Revelle, Director Emeritus of Scripps Institute, stated that marine scientists oppose the project on the basis that it would not result in any significant improvement to the marine environment. Judge Brewster asked all sides to submit briefs addressing his authority to alter the Clean Water Act's secondary treatment requirement. If he does have such authority, Judge Brewster may hold new hearings to determine possible alternative solutions which would protect the environment and comply with the intent of the Clean Water Act. Counsel had until October 1 to submit their briefs.

City of Sacramento v. State Water Resources Control Board; California Regional Water Quality Control Boards for the Central Valley Region; Rice Industry Committee as Real Party in Interest, No. 363703, is still pending in Sacramento County Superior Court. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 195-96 for detailed background information.) The suit alleges that the boards violated state environmental and water quality laws when they adopted and approved a new pollution control plan in January and February 1990. At this writing, WRCB had not yet filed its answer to the complaint.

In *State Water Resources Control Board and the Regional Water Quality Control Board, San Francisco Region v. Office of Administrative Law*, No. 906452 (San Francisco County Superior Court), plaintiffs request a writ of mandate ordering OAL to vacate its Determination No. 4 (Docket No. 88-006). (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 196-97 for detailed background information.) The Determination found that certain WRCB amendments to the San Francisco Bay Plan, which defined "wetlands" and set forth certain criteria for permit discharges to wetlands are regulations, and therefore must be adopted in compliance with the APA.

Following a September 14 hearing, the judge took the matter under submission; he was expected to release his decision in late November.

FUTURE MEETINGS:

Workshop meetings are generally held the first Wednesday and Thursday of each month. For the exact times and meeting locations, contact Maureen Marche at (916) 445-5240.

INDEPENDENTS

AUCTIONEER COMMISSION
Executive Officer: Karen Wyant
(916) 324-5894

The Auctioneer and Auction Licensing Act, Business and Professions Code section 5700 *et seq.*, was enacted in 1982 and establishes the California Auctioneer Commission to regulate auctioneers and auction businesses in California.

The Act is designed to protect the public from various forms of deceptive and fraudulent sales practices by establishing minimal requirements for the licensure of auctioneers and auction businesses and prohibiting certain types of conduct.

Section 5715 of the Act provides for the appointment of a seven-member Board of Governors, which is authorized to adopt and enforce regulations to carry out the provisions of the Act. The Board's regulations are codified in Chapter 3.5, Title 16 of the California Code of Regulations (CCR). The Board, which is composed of four public members and

three auctioneers, is responsible for enforcing the provisions of the Act and administering the activities of the Commission. Members of the Board are appointed by the Governor for four-year terms. Each member must be at least 21 years old and a California resident for at least five years prior to appointment. In addition, the three industry members must have a minimum of five years' experience in auctioneering and be of recognized standing in the trade.

The Act provides assistance to the Board of Governors in the form of a council of advisers appointed by the Board for one-year terms. In September 1987, the Board disbanded the council of advisers and replaced it with a new Advisory Council (see CRLR Vol. 7, No. 4 (Fall 1987) p. 99 for background information).

MAJOR PROJECTS:

Commission Statistics. The Commission recently released its statistical overview for the seven years ending on June 30, 1990. Over the last five years, the total licensee population has increased an average of 6% each year to a total licensee population of 1,234. The number of complaints against licensees as well as unlicensed persons has generally declined, from a high of 285 in 1984-85 to 152 during 1989-90. Other highlights include the Commission's collection of $350,942 in revenues in 1989-89, down $3,500 from a similar license renewal period two years ago (the Commission operates on a two-year cycle). In the last year, the Commission has revoked ten licenses and suspended four. The Commission also issued 178 new licenses during 1989-90.

RECENT MEETINGS:

At its September 14 meeting in San Diego, the Commission reviewed the issued of whether sealed bid auctions are subject to its jurisdiction. The Commission concluded that a sealed bid auction in which (1) bidders submit sealed bids to the seller, (2) at the end of a specified period, the bids are revealed, and (3) the item is sold to the highest bidder, is not subject to its jurisdiction. The Commission reasoned that, in this situation, there does not appear to be a series of invitations made by an auctioneer; in fact, there is no actual "auctioneer" as defined in section 5701(b) of the Business and Professions Code.

Also at its September meeting, Board and audience members raised questions regarding other governmental entities which require auctioneers to be licensed by them in addition to the Commission. The Commission stated that it is the only entity, besides the city or county in which an auctioneer has his/her principal place of business, which has the authority to license auctioneers, and that it will look into ways to stop other agencies from duplicating its licensing process. However, the Commission noted that cities are able to tax auctioneers so long as they don't call the tax a "licensing fee."

FUTURE MEETINGS:

January 11 (location to be announced).

BOARD OF CHIROPRACTIC EXAMINERS

Executive Director: Vivian R. Davis (916) 445-3244

In 1922, California voters approved an initiative which created the Board of Chiropractic Examiners (BCE). Today, the Board's enabling legislation is codified at Business and Professions Code section 1000 *et seq.*; BCE's regulations are located in Chapter 4, Title 16 of the California Code of Regulations (CCR). The Board licenses chiropractors and enforces professional standards. It also approves chiropractic schools, colleges, and continuing education courses.

The Board consists of seven members, including five chiropractors and two public members.

MAJOR PROJECTS:

Update on Proposed Regulatory Changes. In January, the Office of Administrative Law (OAL) disapproved BCE's amendments to section 356, Chapter 4, Title 16 of the CCR, which would require Board-approved continuing education (CE) courses to be sponsored by chiropractic colleges having or pursuing status with the Council on Chiropractic Education; and would require that four out of every twelve hours of CE be in adjustive technique. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 144 and Vol. 9, No. 2 (Spring 1989) p. 112 for background information.) At its July 26 meeting, the Board approved a modified version of section 356, which specifies that the four hours in adjustive technique must be satisfied by lecture and demonstration. The modified version now awaits approval by OAL.

In May, OAL rejected the Board's adoption of new section 355(c), which would require certain chiropractors to complete a minimum of 48 hours of a thermography course. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 198; Vol. 10, No. 1 (Winter 1990) p. 145; and Vol. 9, No. 4 (Fall 1989) p. 127 for background information.) At its September meeting, the Board considered proposed language modifications, which state that chiropractors who intend to operate or supervise the use of a thermography unit must complete 48 hours in thermography or in "a spinal related thermography course." The Board approved this language; at this writing, the proposal is pending at OAL.

At its July 26 meeting, BCE approved two proposed amendments to section 331.1, which had been the subject of a March 8 public hearing. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 198 for background information.) First, the Board added a preamble to the section, which states that chiropractic doctors have a legal obligation to diagnose and recognize even those diseases and conditions which may be beyond their scope of practice to treat, in order to make the appropriate referrals for the overall protection of the public. The Board also added new subsection (d) to the section, which specifies that BCE will not approve any school, provisionally or otherwise, unless the agency accrediting that college, in addition to being recognized by the U.S. Commissioner of Education, fully accredits educational hours and coursework in all of the areas of chiropractic education as required in section 5 of the Chiropractic Initiative Act and its regulations. This regulatory change package awaits review and approval by OAL.

Also at its July 26 meeting, BCE held a public hearing on the proposed addition of regulatory sections 306.1 and 306.2. New section 306.1 would authorize the Board to create Mid-Level Review Panels to review the work of and provide assistance to individual chiropractors, as assigned by the Board, to strengthen various aspects of their practice. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 198-99 for background information.) The Mid-Level Review Panel shall include outside chiropractic experts chosen by BCE; chiropractors under review shall participate on a voluntary basis. New section 306.2 would provide legal representation by the Attorney General's office in the event that a person hired or under contract to provide expertise to BCE, including one who provides an evaluation of the conduct of a licensee as a Mid-Level Review Panel member, is named as a defendant in a civil action. The section also states that BCE shall not be liable for a judgment rendered against such person.

Following the hearing, BCE amended the language of proposed section 306.1