



ABC divides the state into two divisions 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.

## MAJOR PROJECTS:

**Earthquake Damage.** The October 1, 1987 earthquake centered near Whittier, which measured 6.1 on the Richter scale, affected many retailers in east Los Angeles. Licensees suffered damage varying from broken bottles to major structural damage and huge inventory losses.

President Reagan declared the region a federal disaster area, entitling licensees to recover the cost of federal taxes on each bottle of liquor destroyed. In addition, retailers are entitled to various forms of emergency assistance, including special low-interest loans.

**Happy Hour Restrictions.** By January 1, 1988, the ABC was to submit a report to the state Senate concerning possible restriction of "happy hour" promotions in 1988. In 1986, SCR 65 (Russell) requested that ABC conduct hearings on the elimination of specified marketing practices which promote overconsumption of alcohol. The resulting public hearings indicated that certain establishments offer as many as five drinks for the price of one or "all you can drink" promotions during the "happy hour" period. As a result of this testimony, ABC is considering the adoption of regulations to restrict such promotions, which ABC Deputy Director Manuel R. Espinoza characterized as unjustifiable. (For background information, see CRLR Vol. 7, No. 2 (Spring 1987) pp. 72-73 and Vol. 7, No. 1 (Winter 1987) p. 64.)

**License Lottery.** The ABC recently conducted a lottery for new on-sale and off-sale general liquor licenses. A maximum of 25 licenses are issued every year in each county. Winners have ninety days after they win the lottery to file an application designating a location for their establishment.

## LEGISLATION:

**AB 773 (Floyd)**, as amended January 15, would provide that an on-sale beer and wine license may be issued or transferred to any person with respect to premises which are an integral part of

a restaurant owned by, or operated by or on behalf of, the licensee, notwithstanding that a wholesaler licensed to sell alcoholic beverages in states other than California has an interest in the premises, license, or licensee, under certain specified conditions. AB 773 passed the Assembly Committee on Governmental Organization on January 21, and is pending on the Assembly floor as of this writing.

**AB 850 (Klehs)** would authorize certified out-of-state manufacturers to give away samples of alcoholic beverages. It would also provide that a beer manufacturer license or out-of-state beer manufacturer's certificate issued to a manufacturer located within the United States authorizes the giving away of beer samples to consumers for consumption on the manufacturer's premises or on the premises of a bona fide public eating place which has an on-sale license. In addition, the bill would limit the maximum amount of a sample that may be served to a consumer at the premises of a bona fide eating place to twelve ounces per person during each 24-hour period. A January 20 hearing before the Assembly Ways and Means Committee was cancelled at the request of Assembly-member Klehs.

**AB 1345 (Leonard)**, which would prohibit the transfer of an off-sale beer and wine license from the licensee to another person, and from one county to another county, is a two-year bill pending in the Assembly Governmental Organization Committee.

**AB 1887 (Floyd)**, as amended January 4, would repeal existing provisions of the Penal Code prohibiting the sale or exposure for sale of intoxicating liquors within or near certain institutions, as specified (such as the California Youth Authority, various state university campuses, and the State Capitol). This bill is pending in the Assembly Committee on Governmental Organization.

**AB 1898 (Hauser)** would make it a misdemeanor for any person under the age of 21 to attempt to purchase or to solicit another person to purchase on his/her behalf, any alcoholic beverage. AB 1898 is pending in the Assembly Public Safety Committee.

**AB 2377 (Statham)**, which would authorize a licensed beer manufacturer operating under certificate to conduct beer tastings, is a two-year bill pending in the Senate Committee on Governmental Organization.

**SB 1103 (Seymour)**, which would delete an existing prohibition against signs or advertising matter which ob-

structs the view of the interior of a licensee's premises from the street, is pending in the Senate Committee on Governmental Organization.

## BANKING DEPARTMENT

*Superintendent: Howard Gould*  
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The State Banking Department 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 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; conditions 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 proposed name does not so closely resemble as to cause confusion 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 or relocation of branch offices and the establishment 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 travelers checks unless licensed. The superintendent also regulates the safe-deposit business.

The superintendent examines the condition of all licensees. However, as the result of the increasing number of banks and trust companies within the state and the reduced number of examiners following passage of Proposition 13, the superintendent now conducts examinations only when necessary, but at least once every two years. The Department is coordinating its examinations with the FDIC so that every other year each agency examines certain licensees. New and problem banks and trust companies are examined each year by both agencies.

The superintendent administers the Small Business Loan Program, designed to provide long-term capital to rapidly growing small businesses whose growth exceeds their ability to generate internal earnings. Under the traditional standards used by banks, these small businesses cannot provide adequate security to qualify for regular bank loans.

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 all 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.

## MAJOR PROJECTS:

*Hearings on New Federal Law.* On December 18, the Superintendent of Banking held hearings in San Francisco on the Federal Competitive Equality Banking Act of 1987 (H.R. 27). Of particular concern to the Superintendent is Title VI of the Act entitled "Expedited Funds Availability Regulations," commonly known as the "Delayed Funds Availability Regulations." Title VI includes a two-tiered interim and permanent statutory schedule, disclosure provisions, civil liability provisions, and a partial federal preemption of state law. This title also directs the Board of Governors of the Federal Reserve System to adopt funds availability regulations.

Section 603 of Title VI sets forth the expedited funds availability schedules. Subsection (a) takes effect on September 1, 1988, and requires depository institutions to provide next-business-day availability for cash deposits and wire transfers; government checks; the first \$100 of a day's check deposits; checks deposited in one branch of a depository institution; and cashier's checks, certified checks, teller's checks, and depository checks.

The temporary schedule, which takes effect on September 1, 1988, requires that no more than two intervening business days elapse between the day a local check is deposited and the day that such funds are available for withdrawal; and no more than six intervening business days should elapse between the deposit of a nonlocal check and its availability.

The permanent schedule, which takes effect on or before September 1, 1990, requires that no more than one intervening business day should elapse between the day a local check is deposited and the day such funds are available for withdrawal; and no more than four intervening business days should elapse between the deposit of a nonlocal check and its availability.

Sections 603(b) and 603(c) modify the schedule for cash withdrawals. The first \$100 of any deposit would be available for cash withdrawal on the opening of the next business day after the deposit is made. The next \$400 of any deposit would be available for cash withdrawal by no later than 5:00 p.m. on the same business day as other funds are made available (that is, funds made available to pay checks written to third parties). The remainder of any deposit would be available for cash withdrawal no later than the opening of the business day after other funds are made available (again, the time when funds are made

available to pay checks written to third parties).

The time schedule differs for deposits at non-proprietary automated teller machines (ATMs); up to six intervening business days are allowed for all deposits, including cash deposits, at such ATMs from September 1, 1988 until October 31, 1990. This different schedule reflects the fact that nonproprietary ATMs currently do not distinguish among check deposits or between check and cash deposits.

At the same time, Congress believes it is reasonable to expect the owners and operators of ATMs to develop the necessary technology to make such differentiations within a reasonably short time. Therefore, H.R. 27 would require the availability periods for such deposits to conform with the previously-mentioned permanent funds availability schedule, namely one day for local checks and four days for nonlocal checks.

A representative of the California Bankers' Association (CBA) Funds Availability Committee testified at the December 18 hearing that as a general matter, the federal temporary schedule is superior to California's present schedule. Overall the new law will provide a "prompter availability" to consumers. Depository checks will now be treated the same as cashier's checks and all out-of-state checks drawn on out-of-state institutions deposited in California banks will receive more prompt treatment. The CBA representative also stated that there may be complications in deciding what constitutes a local versus a nonlocal item.

The CBA believes that H.R. 27 provides the consumer with one set of clear common rules which will prevail in all the states, and recommends that states conform their statutes with the new federal law.

A representative from Consumers Union testified that certain areas of state law are more beneficial for the consumer and should be preserved. For example, the individual notice of hold provisions under state law are not apparent in the provisions of H.R. 27. Under California law, an individual notice of hold is required if a hold is placed on an account when checks deposited are for a large amount, or for an amount larger than the available account balance; when checks deposited are drawn on another bank or financial institution; or when checks deposited are issued by an individual or organization whose reliability is unknown to the bank. Normally, the hold will not exceed ten banking days



from any location in the United States.

Banking Department staff have reviewed the Department's regulations in relation to H.R. 27, and have concluded that most, but not all, of the Department's hold periods on certain checks and other provisions are preempted. As a result, there may be some confusion for depositors and a compliance problem for banks due to an overlapping of complex federal and state rules. The Department is thus considering whether to seek legislation which would conform state law with the new federal statute. The Banking Department will release its official position and plan of action on the implementation of H.R. 27 during the 1988 legislative session.

**Quarterly Report.** At the close of business on September 30, 1987, the 280 state-chartered banks of deposit with 1,707 branches had total assets of \$90 billion, an increase of \$2.6 billion (2.9%) over September 30, 1986. During this period, the number of banks decreased by six, and the number of branches increased by 29.

Fiduciary assets of the trust departments of 42 state-chartered banks, one title insurance company, and 19 non-deposit trust companies totalled \$107.3 billion, a decrease of \$61.1 billion (36.2%) from September 30, 1986. The assets of 102 agencies and branches of foreign banking corporations (having 117 offices) increased 16.3% to \$65.8 billion.

**FDIC Requires Public Disclosure.** The Federal Deposit Insurance Corporation (FDIC) recently adopted a regulation requiring banks, which already report to regulators on deposits, liabilities, and other matters, to provide the same information to the public effective March 31, 1988 through an annual disclosure statement. Among the types of information required to be disclosed are banks' problem loans, Third World debt exposure, and—in individual cases ordered by the FDIC—enforcement actions against banks. The FDIC regulation affects 8,500 state-chartered banks. The Comptroller of the Currency and the Federal Reserve Board are considering similar requirements for national banks and bank holding companies.

The American Bankers Association opposed the regulation because it believes the information is already available and the disclosure requirement will only increase the cost of regulation. The FDIC, which insures depositors' accounts for up to \$100,000, said the rule would improve public awareness and understanding of the financial condition of indi-

vidual banks.

**Warning Issued.** During the past few months, the superintendent has issued warnings to refrain from violating the Banking Law by doing business in California without a license to Euro-American Investment Bankers, Inc. and/or Euro-American Bank of Los Angeles (October 21, 1987); Canadian American Overseas, Ltd. of Van Nuys (September 17, 1987); Statewide Money Orders (September 1, 1987); and Calsons USA Foreign Exchange of Beverly Village, Los Angeles. Calsons is not authorized to receive money for the purpose of transmission to foreign countries.

**Injunction Ordered.** On September 25, 1987, a preliminary injunction was issued against Sharon Jelovchan and Achille Haddad, individually and doing business as Central Trust Company, The Central Trust Investment Bankers, and Central Pacific Bancorp. They have been ordered to stop transacting business in the manner of a bank or trust company; issuing or causing to be issued letters of credit, certificates, or notes using words like those used by a bank or trust; and using or circulating any document with any words indicating that such business is the business of a bank or trust company. Note: Central Pacific Bancorp should not be confused with Central Pacific Corporation, a duly registered bank holding company in California.

**Bank Closings.** On October 30, Delta Pacific Bank of Pittsburg was closed, and all deposits were assumed by Central Bank of Walnut Creek. On September 25, Commonwealth Bank of Torrance was closed, and all deposits were assumed by Capital Bank of California of Los Angeles. The Valley State Bank of Los Angeles was closed on September 28, and all deposits were assumed by Capital Bank of California of Los Angeles.

## LEGISLATION:

**SB 1244 (Robbins)** was recently signed and chaptered (Chapter 684, Statutes of 1987). As amended, the bill will allow foreign (other nation) banks to continue to acquire and merge with California banks, provided the foreign bank meets certain criteria. The bill also clarifies the California Interstate (Regional) Banking Act of 1986, which allows bank holding companies in eleven western states, beginning July 1, 1987, to acquire California banks. After January 1, 1991, banks in other states can move into California.

California and New York banks opposed SB 1244, contending it gives for-

eign banks an advantage over U.S. institutions. For example, a Japanese bank with branches in California and New York may acquire a California bank now, but a New York bank must wait until 1991 to enter California.

**SB 728 (Robbins)** is pending as a two-year bill in the Assembly Committee on Finance and Insurance. As amended, the bill is intended to be a clean-up bill to clarify and redefine certain language used in both the California Interstate (Regional) Banking Act of 1986 (Chapter 21.6, Division 1 of Financial Code) and the California Interstate (National) Banking Act of 1986 (Chapter 21.5, Division 1 of the Financial Code).

**AB 2358 (Lancaster)**, which has been signed and chaptered (Chapter 841, Statutes of 1987), amends the Local Agency Deposit Security Law, Government Code section 53630 *et seq.* Among other things, the bill prescribes contents of the contract between the local agency treasurer and the superintendent of the Banking Department, acting as Administrator of Local Agency Security.

**SB 1024 (Vuich)**, also signed and chaptered (Chapter 1453, Statutes of 1987), was co-sponsored by the Department. The bill, which resulted from recommendations of a task force including representatives from the Departments of Banking, Corporations, Insurance, Real Estate, and Savings and Loan, will aid in the detection and prosecution of white collar crimes involving financial institutions. SB 1024 amends current law regarding financial privacy, public records, investigations, and state agency information practices to permit state financial services regulatory agencies to provide information to each other and to law enforcement agencies concerning licensing and certification investigations and investigations of unlawful activities.

**AB 1300 (Brown)** requires that up to \$5,000 of funds deposited by cashier's check, certified check, teller's check, or depository check must be available for withdrawal by a customer on the second business day after deposit, with specified exceptions. The bill has been signed by the Governor (Chapter 1150, Statutes of 1987).

**AB 1423 (Calderon)** and **AB 1427 (Calderon)**, relating to ATM machines, and **AB 1429 (Calderon)**, regarding mergers by out-of-state bank holding companies, will no longer be pursued by their author. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 72 and Vol. 7, No. 3 (Summer 1987) pp. 96-98 for background information.)