



4 (Fall 1986) p. 83.) The bill would exclude from the present discharge and exposure prohibitions any discharges or releases of a chemical which is at a concentration not in excess of any tolerance, standard, or permit level for that chemical set by a federal or state agency.

**AB 67 (O'Connell)** would prohibit the state Department of Health Services from issuing permits to hazardous waste facilities to be used in connection with the incineration of hazardous waste at sea. The bill stems from the Governor's veto message of AB 2904 last year. AB 2904 would have prohibited the issuance of such permits pending further research of ocean-based incineration technology. The Governor's veto message stated simply that ocean-based incineration will not be utilized to treat California's hazardous waste, and thus it is unnecessary to complete a study of the issue.

**AB 262 (Peace)** would establish the International Border Pollution Control Authority, which would be vested with powers and duties relating to the mitigation of sources of pollution, contamination, and nuisance which originate across the international border. Last year, the Assembly tried to establish the Authority through AB 4309 (Peace), but the bill was vetoed by the Governor on September 30, 1986.

**AB 313 (Hayden)** would make it a misdemeanor to apply any antifouling paint containing tributyltin on any marine or freshwater vessel, dock, pier, or other structure within navigable waters. Additionally, the bill would require the WRCB to study the use of tributyltin and other organotin compounds and to report to the legislature by January 1, 1989.

Existing law contains no express prohibition on the use of tributyltin in antifouling paint. Tributyltin, an extremely toxic compound also known as TBT, is used as a wood preservative in pesticides and in protective paints. TBT has been banned in several states, as well as in England and France.

**AB 190 (Bradley)** would prohibit a city, county, or district from imposing any additional fees upon an owner or operator of an underground storage tank for any services connected with its operation. Current law already requires each person submitting an application for a permit to operate an underground storage tank containing hazardous substances, or renewing or amending the permit, to pay a fee to the designated department, office, or other agency of the county or city. The governing body

of the local agency is required to set the fee at a level sufficient to pay the costs of the local agency in administering the provisions regulating underground storage tanks.

**AB 525 (Stirling)** would, in part, require the WRCB to carry out studies necessary to collect data and establish objectives for the protection of reasonable and beneficial uses of water in San Francisco Bay and to protect the Bay from pollution, and would require the Board to report to the legislature no later than January 31, 1990.

**AB 734 (Johnston)** would require any sale or exchange of water involving a change in the point of diversion, place of use, or purpose of use to be approved by the WRCB subject to specified findings. The bill would declare legislative intent, and would require the Board to review the sale or exchange at least once every four years.

**AB 645 (Costa)** would require the Department of Water Resources to con-

duct surveys and investigations relating to the reclamation of water on the request of the WRCB or of any California regional water quality control board.

**AB 682 (Kelley)** would add section 13160.5 to the Water Code. Under existing law, waste discharge requirements are required to be prescribed for any discharge of waste that could affect the quality of the waters of the state other than into a community sewer system. AB 682 would require the WRCB and the California regional water quality control boards to consider topographical and climatological variations in annual precipitation when imposing construction and prescriptive standards for class III landfills.

#### FUTURE MEETINGS:

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



## INDEPENDENTS

### AUCTIONEER COMMISSION

*Executive Officers: Paula Higashi  
and Karen Wyant  
(916) 324-5894*

The Auctioneer and Auction Licensing Act was enacted in 1982 (AB 1257, Chapter 1499, Statutes of 1982) and established the California Auctioneer Commission to regulate auctioneers and auction businesses in California.

The Act was 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.

The Auctioneer and Auction Licensing Act provided for the appointment of a seven-member Board of Governors, composed of four public members and three auctioneers, to enforce the provisions of the act and to administer the activities of the Auctioneer 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.

One public member position on the Board of Governors is currently vacant. Charles Westlund recently resigned in order to become a commissioner on the Athletic Commission.

The Board of Governors is assisted by a council of advisors appointed by the Board for one-year terms. The council's functions are: (1) to assist the Board in carrying out its duties, such as accepting/denying applications, preparing and grading examinations, and receiving or designating complaints involving misconduct or issues of professional competence; (2) to act as a liaison between the Board and the industry/public by providing the latter with assistance and information; and (3) to provide input to the Board based on contact with the public and industry.

#### MAJOR PROJECTS:

*Disciplinary Review Committees.* The Board recently approved proposed criteria for selecting new members to its two Disciplinary Review Committees. These committees hear appeals from licensees who have been administrative-



ly fined by the Board. Staff recommended the following proposed selection criteria: (1) review of a financial statement and credit report for both the applicant and any auction company he/she operates; (2) investigation of whether any civil complaints, criminal charges, or disciplinary actions are pending or have been filed against the applicant; (3) consideration of comments concerning the applicant as well as the applicant's response to those comments (comments to be solicited by publishing the names of all applicants in the Commission's monthly information bulletin); and (4) personal interviews with the applicant.

The Board of Governors hopes to create a selection process which will assure that applicants possess knowledge of the law administered by the Commission, an ability to act objectively and analytically in hearing and deciding cases, and personal integrity.

The Board of Governors' concern for selection criteria comes after the recent resignation, amidst accusations of wrongdoing, of David Lawson, a newly-appointed member of the Southern California Disciplinary Review Committee. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 90; CRLR Vol. 6, No. 4 (Fall 1986) p. 85.)

**Enforcement.** The Commission recently reviewed its enforcement practices, which have been criticized in the media in past months. The Commission's policy is to investigate complaints from consignors who have not been paid within thirty working days. Non-payment to consignors may result in license revocation. If payment is made after the thirty-day limit, staff may either issue a notice of warning or a fine of up to \$1,000. A notice of warning, rather than a fine, is normally issued for a first violation, so long as the licensee shows that circumstances beyond his/her control caused the late payment. In the past, ten licenses have been revoked and \$90,000 paid to consignors for non-payment and late payment violations.

The Commission's goals and objectives for the future, as stated in its 1985-86 Biennial Report, are as follows: (1) work with the local law enforcement agencies in pursuing criminal prosecution of serious violators of the Auctioneer and Auction Licensing Act; (2) reduce the time required to process claims so that consignors will receive what they are owed in a timely fashion; (3) reduce the time required to process disciplinary actions and revoke licenses of violators before additional consumers

are harmed; (4) reduce the incidence of unlicensed activity occurring in hotels and on fairgrounds by developing networks with both; (5) explore the feasibility of entering into contracts with other agencies to perform investigations of alleged violations.

#### LEGISLATION:

**SB 84 (Boatwright)** would eliminate existing laws providing for the regulation of the auction industry by the Auctioneer and Auction Licensing Act (see CRLR Vol. 7, No. 1 (Winter 1987) p. 90 for background information). On January 29, the bill was assigned to the Senate Committee on Business and Professions.

The bill already has had an effect. The Board of Governors, which was considering plans to draft and promote other legislation, believes that support for its own legislative proposals will be difficult to find so long as the Commission's future is in question. Therefore, it does not intend to search for sponsors to introduce legislation this year.

Though it is not clear whether the bill poses a serious threat to the Commission, the Legislative Analyst's Office supports the bill. The Board of Governors opposes SB 84.

**SB 288 (Beverly).** The Auctioneer and Auction Licensing Act provides that any person who acts as an auctioneer or operates an auction company shall be licensed and regulated by the Auctioneer Commission, with specified exceptions. This bill, introduced February 4, would create another exception. If passed, secured creditors would be exempt from the licensing requirements of the Auctioneer and Auction Licensing Act. The Board of Governors opposes this bill as introduced. On February 12, SB 288 was assigned to the Senate Committee on Business and Professions.

#### RECENT MEETINGS:

On February 6, the Board of Governors met in Ontario. Although the recovery fund concept was listed on the agenda, the Board spent very little time discussing the idea. A recovery fund would enable the Commission to collectively insure licensees if surety bond premiums become too high. After the Board's November meeting, during which an overwhelming number of auctioneers spoke out against the recovery fund concept (see CRLR Vol. 7, No. 1 (Winter 1987) p. 89), the Board of Governors shifted to other agenda items.

Discussion at the February meeting primarily focused on SB 84 (Boatwright). (See LEGISLATION, *supra*.) Although

the Board opposes SB 84, auctioneers in the audience, without reluctance, expressed dissatisfaction with the Commission and with the Auctioneer and Auction Licensing Act. A common complaint concerned numerous exceptions to the statute which have taken the teeth out of the Act. Licensed auctioneers questioned why certain auctioneers, such as those working at livestock or foreclosure sales, should be exempt from licensing fees and regulation. Audience members seemed to agree that any change could only be an improvement.

The Board of Governors went into closed session to discuss applications for its council of advisors. However, the Board made no selections. Only nine applications were received. The Board will solicit applications again soon and hopes to create a larger applicant pool from which to choose.

Finally, the Board of Governors postponed until its next meeting discussion on the issue of reciprocity with the state of Virginia.

#### FUTURE MEETINGS:

To be announced.

## BOARD OF CHIROPRACTIC EXAMINERS

*Executive Director: Edward Hoefling*  
(916) 445-3244

In 1922, California voters approved an initiative which created the Board of Chiropractic Examiners. 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:

*Defining the Practice of Chiropractic.* The Board finally approved proposed language changes to Title 16, California Administrative Code section 302. The changes include the definition of a duly licensed chiropractor as one who holds an unrevoked certificate to practice chiropractic in California. Section 302(a) defines the scope of practice: a duly licensed chiropractor is one who may manipulate and adjust the joints and soft tissues of the human body.

Other amendments to the section define the techniques and services which may and may not be provided by a chiropractor. The section expressly lists numerous permissible techniques, but