

**BACKGROUND PAPER FOR THE  
CALIFORNIA STATE ATHLETIC COMMISSION  
(Oversight Hearing, March 14, 2011, Senate Committee on  
Business, Professions and Economic Development)  
IDENTIFIED ISSUES, QUESTIONS FOR THE COMMISSION  
AND BACKGROUND CONCERNING ISSUES**

**BRIEF OVERVIEW OF THE  
CALIFORNIA STATE ATHLETIC COMMISSION**

The California State Athletic Commission (Commission) is responsible for protecting the health and safety of its licensees; boxers, kickboxers and martial arts athletes. Established by initiative in 1924, stemming from concerns for athlete injuries and deaths, the Commission provides direction, management, control of and jurisdiction over professional and amateur boxing, professional and amateur kickboxing, all forms and combinations of full contact martial arts contests, including mixed martial arts (MMA) and matches or exhibitions conducted, held or given in California. Functionally, the Commission consists of four components: licensing, enforcement, regulating events and administering the Professional Boxers' Pension Fund (Pension Fund).

The Commission is responsible for implementation and enforcement of the Boxing Act also known as the State Athletic Commission Act. The Commission establishes requirements for licensure, issues and renews licenses, approves and regulates events, assigns ringside officials, investigates complaints received, and enforces applicable laws by issuing fines and suspending or revoking licenses.

The Commission does not require any formal education or examination requirements. Licensees must possess at least a certain level of skill to enable them to safely compete against one another and demonstrate his or her ability to perform.<sup>1</sup> Licensees who do not fall into the combatant category such as referees, judges, timekeepers and ringside physicians must have adequate knowledge of laws and rules so as not to jeopardize the health and safety of athletes. The Commission indicates that there were 11,538 licensees for FY 2009/10.

The current Commission mission statement, as stated in its 2010 Strategic Plan, is as follows:

***The California State Athletic Commission is dedicated to the health, safety and welfare of participants in regulated competitive sporting events, through ethical and professional service.***

The Commission is comprised of seven members. Five members are appointed by the Governor and subject to Senate Rules Committee confirmation. One member is appointed by the Senate Rules Committee and one member is appointed by the Speaker of the Assembly. Commissioners are part-time employees who receive a \$100-a-day per diem. There are no qualifications for an individual appointed to the Commission; however, no person currently licensed as a promoter, manager or judge

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<sup>1</sup> Cal. Business and Professions Code § 18642.5 (2011) and Cal. Code of Regulations, Title 4, Division 2, Chapter 1, Article 6, §283

may serve on the Commission. The law also specifies that efforts should be made to ensure at least four members have experience in either medicine as a licensed physician or surgeon specializing in neurology, neurosurgery, head trauma or sports medicine, financial management, public safety, and the sports regulated by the Commission. The current Commission meets these requirements. The Commission meets about six times per year. All Commission meetings are subject to the Bagley-Keene Open Meetings Act.

Name	Appointment Date	Term Expiration Date	Appointing Authority
<p><b>John Frierson, Chair</b> A member of the Commission since 2001 Frierson is also a 26 year veteran of the Los Angeles Police and Sheriff's Departments. He has been a member of the Los Angeles Transportation Commission since 2001, and is currently its Vice President.</p>	November 18, 2010	January 1, 2015	Speaker of the Assembly
<p><b>Christopher Giza, Vice Chair</b> A member of the Commission since 2005, Dr. Giza currently serves as an assistant professor at the UCLA David Geffen School of Medicine, as a pediatric neurologist at UCLA's Mattel Children's Hospital and as a researcher at the UCLA Brain Injury Research Center. Dr. Giza is board certified in neurology and child neurology by the American Board of Psychiatry and Neurology.</p>	January 2, 2011	January 1, 2015	Governor
<p><b>VanBuren Lemons</b> Dr. Lemons is a neurosurgeon and known as one of the nation's top medical experts in brain injuries in athletes, particularly amateur and professional fighters. Prior to becoming a member of the Commission, Dr. Lemons served on the Commission's Advisory Committee on Medical and Safety Standards which worked to determine necessary minimum medical testing and reviewed important health and safety issues.</p>	October 15, 2009	January 1, 2011	Senate Rules Committee
<p><b>Eugene Hernandez</b> Mr. Hernandez previously served as Chief of Police for Chino from 1998 to 2006. He served the Orange Police Department as Captain from 1991 to 1998, Lieutenant from 1986 to 1991, Sergeant from 1983 to 1986 and Patrol Officer from 1974 to 1983. He is chair of the Yorba Linda/Placentia YMCA, member of the Rotary Club of Chino and member of the National Management Association.</p>	March 1, 2010	January 1, 2013	Governor
<p><b>Steve Alexander</b> Since 2000, Mr. Alexander has served as President of the Steve Alexander Group, a public affairs company. Previously, Mr. Alexander was a Regional Director for Burson-Marsteller from 1997 to 2000, Vice President of Stoorza, Ziegus and Metzger from 1995 to 1997, President of the Steve Alexander Group, a real estate firm, from 1990 to 1995 and president of Westwind Real Estate Services from 1984 to 1989. Mr. Alexander is also a former Chair of the Medical Board of California.</p>	March 1, 2010	January 1, 2013	Governor
<p><b>DeWayne Zinkin</b> Mr. Zinkin is owner and operator of Zinkin Development since 1968. Mr. Zinkin has also owned</p>	March 1, 2010	January 1, 2013	Governor

and operated the Law Office of DeWayne Zinkin since 1972.			
<b>Anthony Thompson</b> Mr. Thompson has served as Chief Executive Officer and President of Thompson National Properties since 2008. Previously, he was Chief Executive Officer and President of Triple Net Properties from 1998 to 2008, General Partner with TMP Real Estate from 1980 to 1998 and Division Manager for Jefferson Standard from 1969 to 1980. Thompson is Chairman and Chief Executive Officer of TNP-Strategic Retail Trust and Chairman of Sterling College's Board of Trustees.	December 21, 2010	January 1, 2014	Governor

The Commission is funded through regulatory fees and license fees. In FY 2009/10, the Commission's operating budget was approximately \$2.3 million, and there were 14.5 authorized staff positions. In 2010, the Commission supervised 184 events, including 82 boxing, 72 MMA, 16 kickboxing and 14 muay thai.

The Commission has two Committees in statute and has established sport specific Sub-Committees at its discretion. The Advisory Committee on Medical and Safety Standards, established in statute, consists of six licensed physicians and surgeons who meet for the purpose of studying and recommending standards for contests<sup>2</sup>. The Committee met one time in 2010. The Martial Arts Advisory Committee, established in statute and appointed at the discretion of the Commission<sup>3</sup>, is comprised of California residents who have previously served as promoters, fighters, trainers, managers or officials in kickboxing or full-contact martial arts events. In 2009, the Commission established an Amateur MMA Sub-Committee that met to discuss whether the Commission should delegate its authority for MMA oversight to a nonprofit organization. It is not clear whether the Amateur MMA Sub-Committee has been reestablished or if it will meet regularly. The Muay Thai Sub-Committee, established by the Commission in 2010, consists of two Commission members with the purpose of hearing from stakeholders and evaluating best practices for the regulation of this sport. The Muay Thai Sub-Committee met one time.

## **PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS**

In 2004, after a thorough review of the Commission, the Joint Legislative Sunset Review Committee (JLSRC) and the Department of Consumer Affairs (DCA) recommended only a one-year extension of the Commission to address deficiencies in its operations. In 2005, the Commission still failed to address myriad personnel and financial issues to an acceptable level so the Joint Committee and DCA recommended a sunset of the Commission. No proposals surfaced to extend the Commission that year and so on July 1, 2006, the Commission's duties were transferred to DCA and its operation continued as a bureau within DCA.

In August 2006, following the July sunset of the Commission, the Legislature approved SB 247 (Perata, Chapter 465, Statutes of 2006) which recreated the Commission on January 1, 2007, as an independent board through July 1, 2009. While the Commission was fraught with issues and

<sup>2</sup> Cal. Business and Professions Code § 18645 (2011)

<sup>3</sup> Cal. Business and Professions Code § 18769 (2011)

seemed to have continuous difficulty operating effectively, the key rationale for the reconstitution of an independent, regulatory body included as follows:

- Greater transparency and public accountability;
- Health and safety risks that rise in an unregulated environment;
- Federal conformity; and,
- Potential for major economic losses to the state.

Federal Law, the Muhammad Ali Boxing Reform Act (Boxing Act) prohibits events from taking place in a state without a regulatory commission unless the fight is regulated by either another state's commission or on sovereign tribal land.<sup>4</sup> Regulated events result in higher levels of protection for fighters than unauthorized or illegal events in addition to added revenue for the state and a boon to the local economy where events take place. SB 963 (Ridley-Thomas, Chapter 385, Statutes of 2008) extended the sunset date on the Athletic Commission and its Executive Officer from July 1, 2009 to January 1, 2011.

This Committee held an oversight hearing focused on the Commission in April 2010. At that time, numerous operational deficiencies, fighter safety issues and problems with amateur MMA regulation were explored and discussed. In addition to administrative issues that plagued the Commission, since it was reconstituted in 2007, Committee members were especially concerned with the process and procedures by which the Commission delegated its authority for amateur MMA regulation.

Since that hearing, and throughout the course of the year, the Commission has made several improvements and significant progress in the way that it does business. After years of failing to set the foundation for the Commission's efforts to effectively do business in the form of a Strategic Plan (Plan), and several missed deadlines to prepare a Plan, the Plan was finally completed and submitted to the Legislature in December 2010. The Commission now holds regular meetings that are generally well attended by new, more engaged Commission members after years of meetings where it was difficult to even establish a quorum. For the first time in many years, the Commission has a full time Executive Officer (EO) and Assistant EO and is not beleaguered with turmoil in personnel, issues involving conflicts of interest, and inappropriate activities on the part of staff. Additionally, there are now more frequent and regular trainings and informational sessions offered for field staff, covering a more consistent set of subjects, and the Commission is finally holding bi-annual training sessions as outlined in statute to ensure that field staff understand their responsibilities and duties relative to all applicable laws and regulations.<sup>5</sup> According to the Commission in its current Sunset Report, meetings are focused on "the ongoing issues of ensuring safety and properly licensing of fighters, promoters, officials, and cleaning up and improving the service of the Commission's operations with sharpened regulation language and being actively concerned with the day to day operations of the office." The Commission is going through the process of updating regulations in the California Code of Regulations to better conform to current practice and strengthen oversight of athletes and events. SB 294 (Negrete McLeod, Chapter 695, Statutes of 2010) extended the sunset date again for one year, from January 1, 2011 to January 1, 2012.

On October 1, 2010, the Commission submitted its requested sunset report to the Committee. In this report, the Commission described actions it has taken since the Commission's prior review. It implemented a number of operational changes and enhancements, including the following:

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<sup>4</sup> Title 15 U.S.C. § 6303 (Federal Boxing Act)

<sup>5</sup> Cal. Business and Professions Code § 18731 (2011).

- Development of a Strategic Plan which includes goals for efficiency, more proactive public outreach and the formulation of performance measures.
- Improved spending efforts and cost control. The Commission has focused on optimum utilization of its resources by attempting to assign staff based on proximity to an event and reducing labor and travel costs as well as managing licensing and avoiding backlogs with a small staff.
- Establishment of new cashiering and accounting practices. The Commission only accepts checks, ensures prompt transmittal to DCA's cashiering unit, is developing a receipt system to identify transactions and is creating a desk and field manual to streamline staff procedures
- Creation of a temporary database and other systems to create more electronic records. The Commission is updating records with past licensing information and attempting to have a precise tracking system. The Commission is also using software to assist in assigning staff as opposed to relying on hand written lists and cards
- Hiring staff and filling vacancies. The Commission has only one key staff position vacant as a means of achieving cost savings and recently hired an Assistant EO with a strong background in board administration
- Positive investment accumulation for the Boxers Pension Fund which historically was insolvent
- Exploration into eligible program development and proper expenditures for the Neurological Examination Fund
- Monitoring the delegation of authority for regulation of MMA events. The Commission works closely with the nonprofit organization overseeing MMA and receives regular reports on its actions, fee structure and standards.

## **CURRENT SUNSET REVIEW ISSUES**

The following are unresolved issues pertaining to this Commission, or areas of concern for the Committee to consider, along with background information concerning the particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which need to be addressed. The Commission and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

## **COMMISSION ADMINISTRATION ISSUES**

**ISSUE #1: (PREVIOUSLY IDENTIFIED PROBLEMS AND DEFICIENCIES MAY STILL EXIST.)** The Commission’s internal operations have been criticized in three different audits over the past six years, including two internal DCA audits and one Bureau of State Auditor (BSA) report focused on the Boxers’ Pension Fund. Some findings still remain unresolved and it may not be possible for the Commission to adequately store information about its field staff and licensee population while properly overseeing large scale events that attract national and international attention.

**Background:** While improvements have been made over the past year, and DCA has provided support to the Commission as it works to be more organized, there remains certain unresolved problems and significant delays in remedies to its internal operations. Each of the three audits over the past six years showed problems with the way the Commission handled its day-to-day business, including, but not limited to, accounting, revenue collection and cash handling, poor record keeping and lack of organization, and a vastly outdated information technology system. As recently as last year, Commission members even raised the issue of whether some type of procedure exists for identifying and tracking both staff and field representatives who work at the direction of the Commission.

Commission staff, with the assistance of the DCA, seem to have spent years trying to organize basic operations and are currently still developing procedures and standards for record keeping. While a sound Strategic Plan is an important first step in improving operations, comprehensive solutions to many basic problems are still not fully realized four years after the Commission was recreated as an independent board. The Commission states that its Plan “includes a focus on operational efficiency and effectiveness with continuing development in creating operational desk procedures, the critical component of developing a licensing database system, and working with staff on training and development while fostering upward mobility opportunities,”<sup>6</sup> but it is not clear how those goals will translate to necessary tools for transparency and organization.

There is still no current, viable information system that encompasses all licensees, including information that is the basis for licensure and ability to participate in events, or captures particulars about officials. The Commission implemented a Microsoft Access database for licensing information but without web-interface and with a reliance on paper forms, key information about licensees can be overlooked. Staff still relies on its licensees to provide materials at events proving that they are in fact licensed, such as carrying a receipt for renewal to show staff that they have met licensure criteria. There also remains a lack of understanding of how potentially flawed files from a handwritten and paper based record system will be reconciled to be a part of a new, functional system when that is available. The number of Commission licensees may also not be entirely sound, as the temporary database is still being reconciled with previous record systems. Additionally, transmittal of key licensee information, event results, and up-to-date performance specifics to national databases, for the purpose of matchmaking in this state and others, can be negatively impacted by the Commission’s lack of sound records.

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<sup>6</sup> California State Athletic Commission 2010-2012 Strategic Plan

While many of these issues may not outright interfere with the health and safety of athletes, they are indicative of flaws in the Commission's ability to do its job; a job that requires being able to protect fighters and the consumer.

***Staff Recommendation:*** *The Commission should continue working to input data from old records and ensure that these are accurate, while establishing standards for efficient, electronic record keeping. The Commission should also explore ways to keep electronic records permanent, rather than utilizing a temporary database system, and confirm that DCA's new BreZE system meets all of the unique needs of the Commission. The Commission needs to ensure that its systems are interactive, available to licensees for more efficient processing of forms and tests, and accessible to all field representatives to maximize athlete health and safety.*

**ISSUE #2: (LACK OF STANDARDS AND EVALUATION OF STAFF, LICENSEES AND OFFICIALS.)** The Commission has improved its outreach efforts but still does not have policies and procedures to objectively hire, assign and evaluate staff, licensees and officials such as inspectors, referees and judges.

**Background:** In addition to its office staff, the Commission uses field representatives, such as inspectors, physicians, judges, and referees to monitor and regulate events throughout the state. Some field representative classifications are required to undergo bi-annual training to ensure they understand their responsibilities and duties relative to all applicable laws and regulations<sup>7</sup>.

According to lengthy testimony at several Commission meetings over the course of the past three years, there still are no clear, comprehensive standards for credentialing, hiring, training, or evaluating staff, licensees and officials; these findings were also outlined in the 2003 DCA audit. Despite improvements under new management leadership in the offering of sessions and clinics, it is unclear if the Commission is able to demonstrate standards for who should be allowed to oversee events, and whether all licensed officials have been properly trained, or are able to pass basic proficiency exams. While the Commission recently began the process to implement new regulations for judge and referee licenses that may take well over a year, there is still a lack of documented processes to determine who is qualified to work at events, and there does not appear to be solid criteria based on performance evaluations for assigning representatives to staff those events.

Additionally, some full-time Commission staff also serve as part-time officials. For example, inspectors from Northern California have been assigned to work at events in Southern California and vice versa, which adds to the appearance of unequal treatment, potential favoritism by Commission leadership staff, and drives up Commission expenditures due to excessive travel costs. (According to budget documents, the Commission overspent its Fiscal Year 2008-09 budget by about \$150,000, which staff reports could stem from improper assignments of field representatives.) The *Press Enterprise*<sup>8</sup> reported on one Commission meeting with particularly vocal testimony about how staffing assignments are made, noting that "a referee for a prizefight is the most powerful official in sports" but questioning why there is no system to evaluate and advance high performing officials or penalize poor performing officials. In December 2009, staff reported a commitment to working on scheduling officials for events based on training and experience but it is unclear how those efforts have fully taken shape. In December 2010, staff reported that evaluation criteria are in place but they are not

<sup>7</sup> Cal. Business and Professions Code § 18615 and 18731 (2011).

<sup>8</sup> David A. Avila, "Going to Scorecards Shouldn't Be Scary," *The Press Enterprise*, Feb. 15, 2010 ([http://www.pe.com/sports/boxing/stories/PE\\_Sports\\_Local\\_W\\_box\\_col\\_16.4460e3d.html](http://www.pe.com/sports/boxing/stories/PE_Sports_Local_W_box_col_16.4460e3d.html)).

documented. The overall lack of documented processes and transparency can create an impression of impropriety and preferential treatment.

In September 2010, Commission staff recommended and the Board voted to seek legislation to cap the number of licensed officials based on unspecified economic conditions. This proposal seems to be an attempt to fix the potential issue of an oversized pool of officials and the need to properly assign these individuals to events. Instead, the implementation of proper standards and proper evaluation as the basis for assignments is a more appropriate option than a statutory change.

***Staff Recommendation:*** *The quality of officials is critical to protecting the health and safety of athletes. As such, the Commission needs to immediately create standards and evaluation procedures for all staff, licensees, officials and field representatives. The Commission has a robust network of athletes and officials who may provide guidance on this process. The Commission should also work with the Association of Boxing Commissions (ABC) to determine best practices and ensure compliance with any uniform standards.*

**ISSUE #3: (PROCEDURAL AND STAFF CONFUSION IN THE FIELD MAY IMPACT ATHLETE HEALTH AND SAFETY.)** The Commission has a representative in charge at events, but confusion may still exist with the presence of Commission management staff as to who is ultimately responsible at the event .

**Background:** The role of management staff in the field may confuse assigned officials and promoters and lead to varying outcomes. While Commission regulations outline procedures at an event, it may not be clear who is actually in charge given a lack of clearly outlined chains of command. The Commission has numerous representatives at events it oversees. In addition to assigned officials and judges and inspectors, the EO attends many events. At an event in November 2010, judging was impacted by a number of factors that resulted in the Commission reversing the outcome of a fight at one of its meetings. Prior to the contest, the fighters changed corners at the direction of the event promoter. Commission staff notes that this is not a unique occurrence and in those situations judges should be aware of changes and adjust scorecards accordingly. In a report to the Commission, the EO shared his account of the event, including the fact that despite the announcement of a win for one fighter via unanimous decision, the EO was aware that one judge scored the match for the other fighter, which would have resulted in a split decision. At that point, the EO reviewed scorecards and directed staff to confer with the judge and clarify his intent and scoring.

With numerous different staff and officials working to determine what actually occurred, the only certainty was that the item needed to come before the Commission. The Commission voted to change the outcome of this particular fight to a no decision because of lack of clarity on the actual scorecards. This incident was also clouded by numerous anecdotal accounts of what occurred and intensely emotional presentations at the Commission meeting and in the field. It is also unclear what impact reversing a decision well after an event will have on the reliability of athlete information and data reported to national databases.

***Staff Recommendation:*** *Implementing standards and evaluation criteria that serve as the basis for assignments will help alleviate some of the problems associated with the management of events. The Commission should take steps to ensure that interested parties such as promoters, athletes, athlete representatives and Commission staff are aware of who will serve as the lead person in charge of an event and who has the authority as the person in charge to make final decisions.*

**ISSUE #4: (NEED FOR EVALUATION AND ENFORCEMENT OF PUBLIC INFORMATION POLICY.) Mixed messages to stakeholders, the public and media are the result of a lack of clear policy on the type information that should be disseminated publicly and who is eligible to speak on behalf of the Commission.**

**Background:** With the popularity of Commission-regulated sports increasing tremendously during the past decade, events, activities and Commission administration receive a great deal of attention in media outlets and among stakeholder groups. The Commission currently has a policy on “communications with other organizations and individuals” that outline guidelines for handling only certain types of information, but does not address some of the licensee-specific details that are often reported. The policy, as outlined in the Commission’s Board Member Administration Manual, states:

*All communications relating to any commission action, policy, or complaint to any individual, organization, or media shall be made only by the chair of the commission, his or her designee, or the executive officer. Any commission member who is contacted by any of the above should inform the commission chair or executive officer of the contact immediately. All correspondence shall be issued on the commission’s standard letterhead and will be disseminated by the executive officer’s office.*

Throughout the past number of years, highly sensitive issues have arisen at the Commission that especially garner extreme public and media interest. Some examples include: denial of licensure to an athlete based on the presence of drugs, suspension of a licensure based on possible use of foreign substances in gloves, use of marijuana by athletes, what types of sports are included in the statutory definition of full-contact, the hiring of Commission staff and policies on charity events. Announcements and statements detailing Commission policies or positions on these items have come from a variety of sources, including the Chair of the Commission, the DCA media office or Commission staff. While the nature of the events the Commission regulates, as well as public scrutiny of and media attention to the sports is unique, contact between staff or members and public information outlets may be construed as casual, but can actually have lasting effects through news stories and blog publications. Statements have been made public to the media and stakeholders that may violate the privacy of athletes and may impact decisions the Commission makes at its meetings on certain agenda items before a public hearing is held. Although Commission staff does have discretion on certain items, as outlined in the above policy, issues that eventually become part of the Commission’s public record at hearings should have a formal response that is also made available to Commission members as part of meeting agenda items. Important, valid information about the Commission, its operations and events it regulates may better reach a large, national and international audience if it is transmitted in a formal manner by the state’s authority for the types of sports the Commission oversees.

**Staff Recommendation:** *The Commission needs to evaluate and enforce its communication policy while also determining the following: (1) The items eligible for public discussion prior to meetings and outcomes; (2) The items eligible for announcement to a list of stakeholders and on the Commission website; and, (3) The items that should not be discussed on the record to media.*

**ISSUE #5: (THOSE APPEARING AT COMMISSION MEETINGS NOT CLEAR ABOUT THEIR ROLE AND EXPECTATIONS.) Stakeholders, applicants for licensure, athletes appealing decisions and others are unprepared for Commission meetings and unclear of action the Commission may take when they appear as witnesses.**

**Background:** The Commission now holds more frequent and regular meetings, however, interested parties for certain agenda items are not always clear about their role and expectations at public meetings. Many Commission meetings have been overtaken by disorganized public comment and outbursts stemming from frustration on the part of attendees who do not know, or understand why action is taken, and in many cases why no action is taken. Applicants for licensure appear on the agenda but many are not prepared for questions, or may have received a verbal indication from Commission staff that nothing is required of them at Commission meetings. Similarly, athletes appealing suspension or requesting the reinstatement of their license have attended meetings without their attorney, requiring the issue to be put over until another meeting. Commission staff indicated that licenses are denied by the Commission at public meetings because applicants are not present, but it is unclear if attendance is a condition of licensure and if that policy is appropriately conveyed to applicants in more than telephone calls with staff. Licensees also appear at meetings at the direction of Commission staff, but supporting materials may not have been included as background for Commission members, requiring another agenda item at another meeting and another appearance by the applicant. For example, over the course of numerous meetings in 2010, two applicants for licensure routinely appeared with the understanding that they had successfully met all criteria for approval, but each time they appeared a new issue was raised that either related to qualifications that had not previously been required, or confusion on behalf of Commission members who did not have adequate information. Commission staff does not always include all pertinent licensing materials for Commission member review, or may not effectively collect necessary documents for licensure; a problem that is further impacted by a lack in clear standards and stated definitions for what is required. The reliance on personal conversations that can shift depending on the matter, or the licensee, rather than on documented procedures and standards, affects the Commission's ability to conduct productive meetings and swiftly take care of key issues.

**Staff Recommendation:** *The Commission should provide written notification to individuals and groups appearing at their public meetings outlining what is expected of them as a witness, what type of testimony they may be asked to give, whether an attorney needs to be present, what staff will recommend to Commission members, and what supporting material need to be provided in advance. The Commission could also outline this information on its Website and in publications it gives, or sends to stakeholders, as a means of ensuring the maximum level of transparency and increasing productivity at its meetings.*

**ISSUE #6: (PROFESSIONAL BOXERS PENSION FUND STILL POORLY ADMINISTERED?) Created in 1982, to provide benefits to former boxers, the Professional Boxers Pension Fund (Fund) may not be appropriately administered to meet the needs of these athletes.**

**Background:** The Commission administers the Fund, which has been the subject of much criticism since its inception in 1982. Previous sunset reviews expressed concerns about the fund's operations and in 2005, the Bureau of State Audits (BSA) found that the fund was poorly administered and very few boxers have or would receive benefits from the fund. The Auditor noted that from 2001-2004,

total benefits paid to boxers were \$36,000, while administrative costs were six times greater. Further, the Auditor also noted that, as of 2003, only 14 percent of licensed boxers were vested and their accounts were very low. On December 31, 2005, only 43 participants were eligible for retirement benefits totaling just \$430,000. BSA recommended reducing vesting requirements and increasing the gate fees used to fund the plan. According to a report issued by BSA in January 2011, these recommendations from 2005 remain unresolved. The Commission responded to BSA's recommendation by stating that it will conduct a study on the impact of reducing vesting requirements and pursue changes in statute or regulation or an increase in gate fees.

While the Fund has recently been better managed and is now more fiscally sound, a key issue still facing the Commission with regards to the Fund is the need to ensure that athletes know they are eligible for benefits. As of August 2009, approximately 100 boxers were eligible to receive \$1.2 million in benefits. As of September 2010, 106 boxers were eligible for benefits from the fund which has grown to \$5.25 million. But as of December 2009, only 14 boxers were paid approximately \$182,000. According to a report on the pension fund for calendar year 2010, an \$8,000 payment was issued to a boxer but the check was never cashed. The solvency of the Fund may be improperly judged because of the large amount of monies not collected by eligible recipients.

The Commission states that in many cases it does not have any mechanism to contact former fighters. One key issue is the Commission's lack of viable electronic records and data in general for licensees, which could prove especially useful in outreach to athletes deserving of benefits. The Commission previously acknowledged the need to conduct a marketing plan to find fighters and increase awareness about the availability of benefits, yet no formal outreach approach has been defined or implemented. It is not clear what resources the Commission could allocate to achieve that goal, nor is it clear if staff will be able to effectively process applications for benefits. The Commission primarily uses its meetings to conduct outreach, however, that small field of attendees and regular participants does not capture a much larger sphere of eligible boxers.

**Staff Recommendation:** *At a minimum, the Commission needs to properly utilize the resources that it does have to better promote the Boxers Pension Fund to eligible athletes, such as inclusion of information on renewal notices sent to licensees. The Commission should publish highlighted information about benefit opportunities on its Website. The Commission needs to work with promoters to determine the viability of including Fund information in event materials or having announcements made at large, and especially nationally televised event, about efforts to contact retired boxers. The Commission can reach out to other state agencies to survey their clients and determine if there is crossover in the populations served by each. The Commission should report to the Legislature on the status of the effort to reach out to eligible athletes.*

## **REGULATION OF AMATEUR SPORTS**

Current law allows the Commission to delegate its authority to oversee amateur sports to a qualified nonprofit organization if the Commission determines that the nonprofit "meets or exceeds the safety and fairness standards of the Commission."<sup>9</sup> If authority over regulation of an amateur sport is delegated to a qualified nonprofit organization, the Commission must conduct an annual review.<sup>10</sup> The Commission has the "sole direction, management, control of, and jurisdiction over all professional and

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<sup>9</sup> Cal. Business and Professions Code §18646 (2011).

<sup>10</sup> Cal. Business and Professions Code §18646 (2011).

amateur boxing, professional and amateur kickboxing, all forms and combinations of forms of full contact martial arts contests, including mixed martial arts, and matches or exhibitions conducted, held, or given within this state”<sup>11</sup>. Thus, under current law, the Commission’s delegated authority for amateur regulation would also have oversight of the same sports as the Commission.

California is unique in requiring that a delegated authority have nonprofit status. According to information provided by the National Conference of State Legislatures (NCSL), many other states similarly delegate regulatory authority for amateur sports but do not always require the organization to have nonprofit status. Some, like Oklahoma,<sup>12</sup> require that an authority other than the state commission be a nationally recognized amateur sanctioning body. Many sanctioning outfits are actually for-profit organizations but often have national or international authority over a particular sport.

The Commission has delegated its regulatory oversight responsibilities of amateur boxing and MMA to two different nonprofit organizations – USA Boxing, Inc. and the California Amateur Mixed Martial Arts Organization (CAMO).

**ISSUE #7: (PROBLEMS WITH USA BOXING.) This organization continues to come under scrutiny in its ability to promote the safety and protection of amateur boxers.**

**Background:** The Commission currently delegates its authority for regulation of amateur boxing to USA Boxing, Inc. a nonprofit organization that is a branch of the U.S. Olympic Committee. In California, USA Boxing has four local boxing committees (LBC).

- California Border Association serving San Diego and Imperial Counties
- Central California Association serving Mariposa, Madera, Fresno, Kings, Tulare, Inyo, Mono, Kern, San Benito, San Luis Obispo, Merced, San Joaquin, Calaveras, Monterey, Stanislaus and Tuolumne Counties
- Northern California Association serving portions of the state located north of Monterey, including parts of San Benito, Merced, Stanislaus, San Joaquin, Calaveras, Tuolumne and Mono Counties
- Southern California Association serving Ventura, Los Angeles, San Bernardino, Orange, Riverside and Santa Barbara counties

There have been several issues with USA Boxing that raise some concern regarding the oversight of amateur boxing. In 2009, the Commission suspended USA Boxing’s authorization to regulate amateur boxing for three weeks in response to media reports of improprieties including underage alcohol consumption and gambling at USA Boxing sanctioned events and concern for the health and safety of amateur athletes. That delegation was reinstated after Commission staff negotiated stricter requirements regarding safety, background checks, uniformity, reporting and record keeping, and included promises for USA Boxing to be more responsive to the Commission. The Commission voted to place USA Boxing on probation until June 2010.

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<sup>11</sup> Cal. Business and Professions Code § 18640 (2010).

<sup>12</sup> Title 92 Oklahoma Professional Boxing Commission, Chapter 10, Rules for Boxing and Other Activities. § 606 (B)(3).

USA Boxing has either been on the agenda or Commission members and staff has requested that a USA Boxing item be placed on the agenda for many of the meetings held during the past two years. The Commission does not seem to have the appropriate information when requested from and about USA Boxing, and particularly in response to specific items raised at Commission meetings. In 2009, regular updates from USA Boxing were a condition of continued delegated authority. It does not appear that Executive Staff from the organization has made formal presentations to the Commission since early 2010, nor have there been formal presentations by each of the four LBCs at public meetings.

At the December 2, 2010 Commission meeting, USA Boxing was on the agenda to present a report from the Northern California Association. The representative of USA Boxing, who appeared at the meeting, was actually from the organization's Executive Office and was not prepared to provide such a report and appearing surprised that he was asked to present one. The Commission gave USA Boxing two weeks to submit the report. USA Boxing met the extended deadline.

On December 20, 2010, Michael Antonovich, Mayor of the County of Los Angeles and member of the county Board of Supervisors, wrote a letter to the Commission in which he states that there may be cases of widespread bribery, corruption and differential fees being charged at amateur boxing matches held in Los Angeles County. On January 4, 2011, Commission staff referred the complaint back to USA Boxing rather than initiating its own investigation.

At the February 4, 2011 Commission meeting, a representative of the Southern California Association presented an annual report to the Commission. He was not aware of the allegations in Mayor Antonovich's letter and was unprepared to offer any defense to the allegations, which were raised when he gave his report. The EO and Assistant EO met with Executive Staff from USA Boxing and LBC leaders on January 10, 2011 to discuss ongoing efforts to improve the organization's oversight of events, as presented at the same February 4, 2011 Commission meeting. No mention was made of efforts by the Commission to appropriately take action regarding the allegations and it is unclear if staff discussed steps to look into these events during discussions with USA Boxing representatives.

In its public statements following the initial suspension of USA Boxing's delegated authority in 2009, the Commission stated that the suspension would remain in effect until the Commission "had fully investigated numerous allegations concerning regulation of the sport by USA Boxing and its local affiliates." Now, in the midst of new reports of inappropriate activity, Commission staff swiftly sent complaints about USA Boxing back to USA Boxing for investigation, rather than initiating its own inquiry.

It remains unclear how the Commission would appropriately oversee amateur boxing given the serious concerns raised about its ability to even manage USA Boxing and provide appropriate oversight. In recent action to delegate authority for amateur MMA oversight, the Commission cited limited resources as a primary reason for looking to a nonprofit entity for regulation. Commission staff and resources remain quite limited and are a barrier to effective oversight and regulation by the Commission of the sports that it has delegated its authority to regulate. But it is entirely possible that the Commission could once again suspend USA Boxing's authority, leaving a void in California's amateur boxing regulation all together and significantly harming the many young people taking part in this sport.

**Staff Recommendation:** *Regulations and statute governing the Commission's policies need to be updated to ensure that it has the ability to oversee amateur boxing in the event that USA Boxing is*

*suspended again or removed completely from the authority to administer amateur events. The Commission should receive regular reports from USA Boxing in writing and at meetings. The Commission has not submitted language to this Committee for inclusion in code cleanup measures that are authored annually and needs to review what necessary changes, both technical and substantive, should be made to effectively promote the safety of these primarily young athletes.*