

BACKGROUND PAPER FOR The California State Athletic Commission

**(Joint Oversight Hearing, March 18, 2015, Senate Committee on
Business, Professions and Economic Development,
Assembly Committee on Business and Professions and
Assembly Committee on Arts, Entertainment, Sport, Tourism and
Internet Media)**

IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING THE CALIFORNIA STATE ATHLETIC COMMISSION

BRIEF OVERVIEW OF THE CALIFORNIA STATE ATHLETIC COMMISSION

History and Function 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 other martial arts athletes. Concerned with athlete injuries and death, the public established the Commission by initiative in 1924. The Commission is responsible for implementation and enforcement of the Federal Muhammad Ali Boxing Reform Act (Federal Boxing Act) and the California Boxing Act or State Athletic Commission Act (State Act). It provides direction, management, and control for professional and amateur boxing, professional and amateur kickboxing, and 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. The Commission has four main functions: licensing, enforcement, regulating events and administering the Professional Boxers' Pension Fund (Pension Fund).

Specifically, 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. In 2014, the Commission supervised 128 events. In 2015, the Commission has so far supervised 38 events, including 18 boxing, 8 MMA, 1 kickboxing.

The current Commission mission statement, as stated in its 2013-2015 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 in the process of updating its Strategic Plan for 2016-2019 and recently began soliciting stakeholder feedback.

The Commission is one of 40 boards, bureaus, committees, and other programs at the Department of Consumer Affairs (DCA).

Commission Membership and Committees

The Commission is comprised of seven members. Five members are appointed by the Governor and subject to confirmation by the Senate Committee on Rules. One member is appointed by the Senate Committee on Rules and one member is appointed by the Speaker of the Assembly. Commissioners are part-time employees who receive a \$100-a-day per diem. While there are no qualifications for an individual appointed to the Commission, no person currently licensed as a promoter, manager or judge 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 Commission Executive Officer (EO) is appointed by the Commission, subject to approval by the Director of DCA. The current EO has served since November 2012.

The Commission meets about six times per year to:

- Handle matters related to licensure and appeals of license denials, suspensions and fines.
- Propose and review regulations or legislation focused on maintaining the health and safety of fighters.
- Consider issues related to the Boxer’s Pension Program and the Neurological Examination Account.
- Evaluate funding and revenue strategies.
- Address a variety of topics brought forth by stakeholders.

All Commission meetings are subject to the Bagley-Keene Open Meetings Act. The following is a listing of the current members of the Commission:

Name and Short Bio	Appointment Date	Term Expiration Date	Appointing Authority	Professional or Public
<p>John Carvelli, Chair Mr. Carvelli has been executive vice president at LIBERTY Dental Plan since 2004. He was president of Medimanager Inc. from 1999 to 2003 and a health care consultant at Empire Pacific LLC from 1995 to 1999. He is a member of the Team 100 Food for Kids Board of Directors and the Parents Television Council Advisory Board.</p>	2/3/2014	1/1/2018	Governor	Public
<p>Mary Lehman, Vice Chair Ms. Lehman has been a civil appeals attorney at the Law Offices of Mary A. Lehman since 1995. She was an attorney with Gray Cary Ware and Freidenrich LLP from 1991 to 2002. She was a professional boxer from 1999 to 2002, ranking as high as number nine in the world for her weight class. Lehman earned a Juris Doctorate degree from the University of San Diego School of Law.</p>	3/26/2013	1/1/2017	Governor	Public

John Frierson 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.	2/2/2015	1/1/2019	Speaker of the Assembly	Public
Martha Shen-Uquirdez Ms. Shen-Uquirdez has been CEO of USAsia since 2007. She was cross-cultural affairs expert for the Beijing Olympics Organization from 2006 to 2008, senior protocol officer with the California South Bay Economic Development Partnership from 1994 to 2001 and court appointed arbitrator at the Superior Court of California, County of Los Angeles from 1994 to 1999. Ms. Shen-Uquirdez was a judge pro tem for Los Angeles County from 1994 to 1998, attorney and training expert with multiple police departments in Southern California from 1989 to 2004 and an attorney in private practice from 1986 to 2005. She served as a credentialed boxing judge from 2000 to 2001. Shen-Uquirdez earned a Juris Doctorate degree from Whittier Law School.	3/26/2013	1/1/2017	Governor	Public
Vacant			Senate Rules Committee	Public
Vacant			Governor	Public
Vacant			Governor	Professional

The Commission has three Committees in statute and has established sport- and issue-specific Subcommittees at its discretion over the past two years. The following is a list of Subcommittees and the work they have done since the Commission was last up for Sunset Review (some of the Subcommittees below no longer meet):

- *Advisory Committee on Medical and Safety Standards*, established in statute, consists of six licensed physicians and surgeons appointed by the Commission who meet for the purpose of studying and recommending standards for contests.
- *Amateur Boxing Oversight Subcommittee* reviews the Commission's delegation of authority for amateur boxing, including financial documents, bylaws, and any other changes to the operations and rules of the delegated entity in order to ensure a high level of safety for amateur boxers and amateur boxing events.
- *Anti-Bullying Campaign Subcommittee* creates and supports an anti-bullying message intended to be delivered to students in Commission-partner school districts by Commission officials and licensees on a voluntary basis. In April 2014, the Commission and the Los Angeles Unified School District partnered on the Commission's first anti-bullying outreach effort at Fremont High School aimed at impacting the lives of high school students.
- *Large Event Incentive Subcommittee* evaluates options for California to retain large events. The Commission established the subcommittee in response to concerns that the state has been consistently losing fight events to other states, which dedicate resources to aggressively solicit

these away from California, in large part due to the states' efforts to highlight tax requirements in this state and through offering other incentives. The Subcommittee conducts outreach to stakeholders while advocating the benefits of holding events in California, including, but not limited to, the state's reputation for having the best event judges and officials. The Subcommittee also conducts research on tax assessment requirements and subsequent clarification of requirements by the Franchise Tax Board which have been provided to the event stakeholder community.

- *Legislative Subcommittee* evaluates pending legislative proposals and works with Commission staff on legislative issues related to regulating combat sports.
- *Martial Arts Advisory Committee*, established in statute and appointed at the discretion of the Commission, 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 Subcommittee* that met to discuss whether the Commission should delegate its authority for MMA oversight to a nonprofit organization. Currently, the *Amateur MMA Oversight Subcommittee* reviews the Commission's delegation of authority for amateur MMA, including financial documents, bylaws and any other changes to the operations and rules of the delegated entity in order to ensure a high level of safety for amateur MMA athletes and amateur MMA events.
- *Muay Thai Subcommittee* hears from stakeholders and evaluates best practices for regulating this sport and ensuring the health and safety of athletes.
- *Neurological Fund Subcommittee* works to assist the EO with regulatory language outlining the process for determining the per-ticket assessment to be deposited into the neurological account.
- *Officials Subcommittee* oversees and evaluates proper training, education and pay of officials with a focus on ensuring that officials have awareness of and proficiency in California event rules and regulations.
- *Pension Plan Subcommittee* works to ensure proper processes are followed pertaining to the collection and distribution of pension funds to eligible boxers and evaluates the scope of the contract the Commission has with a third-party administrator.
- *Ringside Officials Subcommittee* evaluates and recommends necessary changes related to the training, evaluation, and pay of all officials. This subcommittee works to ensure that officials are properly trained and educated about the specific rules and regulations governing events.
- *Therapeutic Use Exemption Subcommittee* assists the EO with drafting regulatory language related to an exemption from enforcement for use of certain banned substances for therapeutic purposes. Its goal is to promote the strictest anti-doping standards for any boxing and MMA regulator in the world.
- *Transgender Licensing Subcommittee* assists the EO with drafting regulatory language related to the licensing of transgender athletes.

- *Youth Pankration Subcommittee*, established in statute, studies youth pankration and the appropriate regulatory environment for youth pankration. The Subcommittee met 9 times between the end of 2013 and the Spring of 2014 and provided findings to the Legislature and the full Commission. As a result, the Commission delegated regulation of Youth Pankration to the United States Fight League so young California athletes are now able to compete in pankration under strict safety standards and within in a safe, regulated environment.

The Commission is a member of the Association of Boxing Commissions (ABC), a federally recognized association which promotes uniform health and safety standards for boxing and MMA, keeps accurate records of athletes and event outcomes, encourages adherence to and enforcement of applicable federal laws and publishes medical and training information for boxing and MMA professionals. The ABC has federal oversight for boxing. The Commission has voting privileges with ABC and the current EO is Chair of the ABC Unified Amateur MMA Rules Committee, Chair of the ABC Governmental Affairs Committee, as well as a member of the ABC MMA Trainer Committee which approves standards for MMA officials and trainers, a member of the ABC Competitive Matchmaking Committee, a member of the ABC Unified Professional Mixed Martial Arts Rules Committee, a member of the ABC MMA Judging Committee, and a member of the ABC Approved MMA Training Committee.

The Chair and Vice Chair of the Commission's Medical Advisory Committee are officers in the Association of Ringside Physicians, an organization aimed at developing medical protocols and guidelines to ensure the safety and protection of athletes.

Fiscal, Fund and Fee Analysis

As a special fund entity, the Commission receives no General Fund (GF) support, relying solely on fees set in statute and collected from regulatory and license fees. For each event held in California that the Commission regulates, the Commission collects a "gate fee" from the event promoter, which is a 5% fee on gross ticket sales for that event, not to exceed \$100,000. The Commission also collects a "TV fee" from the event promoter if the event is broadcast on television, which is a 5% fee on the revenue a promoter collects from broadcasting rights, not to exceed \$35,000.

The Commission receives over 70% of its revenue from the fees above, however, unlike other program under DCA, the Commission cannot rely on a predictable funding source such as license fees, when forecasting its revenue and projecting its ability to fund expenditures far in the future, given the fluid nature of the Commission licensing revenues and fluctuations in the sports that dictate when events do or do not take place.

The "gate fee" and "TV fee" can fluctuate greatly from year to year and are significantly influenced by market conditions, as promoters may not opt to hold the same number of fights in California during an economic downturn, among other economic factors.

The fee schedule and revenue collected over the past four years is reflected in the chart on the next page:

Fee Schedule and Revenue (revenue dollars in thousands)							
Fee and Statutory Authority	Current Fee Amount	Statutory Limit	FY 2010/11 Revenue	FY 2011/12 Revenue	FY 2012/13 Revenue	FY 2013/14 Revenue	% of Total Revenue
Gate Taxes (BPC §18824)	5% of Gate	\$100,000	\$970,645	\$788,459	\$861,397	\$840,783	58.43%
Television Taxes (BPC §18824)	5% of TV Revenue	\$35,000	\$475,344	\$360,815	\$479,252	\$351,805	24.45%
Amateur (Club) Promoter (BPC §18805)	\$250	\$250	\$3,500	\$3,500	\$1,000	\$750	0.05%
Professional (Club) Promoter (BPC §18804)	\$1,000	\$1,000	\$50,000	\$47,150	\$43,000	\$34,000	2.36%
Amateur Referee/Judge (BPC §18813)	N/A	N/A	\$0	\$0	\$0	\$0	0%
Professional Referee (BPC §18812)	\$150	\$150	\$4,800	\$6,450	\$5,400	\$6,750	0.47%
Professional Manager (BPC §18810)	\$150	\$150	\$10,950	\$11,600	\$14,850	\$18,150	1.26%
Second (BPC §18811)	\$50	\$50	\$89,750	\$88,100	\$104,550	\$105,000	7.30%
Timekeeper (BPC §18814)	\$50	\$50	\$650	\$600	\$500	\$700	0.05%
Professional Fighter (BPC §18809)	\$60	\$60	\$54,360	\$53,260	\$66,840	\$62,340	4.33%
Professional Judge (BPC §18812)	\$150	\$150	\$6,150	\$6,000	\$6,150	\$8,100	0.56%
Sparring Permit (BPC §18815)	\$25	\$25	\$0	\$420	\$0	\$0	0%
Matchmaker (BPC §18806)	\$200	\$200	\$2,000	\$2,600	\$2,400	\$2,800	0.19%
Assistant Matchmaker (BPC §18807)	\$200	\$200	\$0	\$0	\$0	\$0	0%
Professional Trainer (BPC §18816)	\$200	\$200	N/A	N/A	N/A	\$4,600	0.32%
Federal ID Cards (BPC §18820)	\$20	\$20	N/A	N/A	N/A	\$3,085	0.21%

*Renewal Fees are the same as original application fees.

The Commission has not formally discussed pursuing increases to its current fee schedule yet may need to consider that option as part of its ongoing evaluation of available revenue.

The following is the past (since FY 2010/11), current and projected fund condition of the Commission:

Fund Condition						
(Dollars in Thousands)	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15 (projected)	FY 2015/16 (projected)
Beginning Balance	\$ 811	\$ 469	\$39	\$245	\$503	\$805
Revenues and Transfers	\$ 1,758	\$ 1,386	\$1589	\$1452	\$1704	\$1702
Total Revenue	\$ 2,569	\$ 1,855	\$1628	\$1697	\$2207	\$2507
Budget Authority	\$ 2,420	\$ 2,390	\$1939	\$1193	\$1401	\$1615
Expenditures	\$ 2,153	\$ 1,832	\$1311	\$1194	\$1402	\$1444
Loans to General Fund	0	0	0	0	0	0
Accrued Interest, Loans to General Fund	0	0	0	0	0	0
Loans Repaid From General Fund	0	0	0	0	0	0
Fund Balance	\$ 416	\$ 23	\$317	\$503	\$805	\$1,078
Months in Reserve	2.7	0.1	2.1	4.8	7.5	9.0

During FY 2011/12, the Commission avoided insolvency by taking large cuts in order to end the year with 0.1 months (\$23,000) in its reserves. During that time the Commission laid off all temporary staff, reduced staffing levels at regulated events and reduced staff and Commission member travel. In 2013, the Governor's Budget included a request for an \$814,000 budget reduction for the Commission for FY 2013/14 and ongoing, a 35% reduction in spending. At the time, the request was approved but required the Commission to provide follow-up information related to expenditures for regulating an event, expenditures for staff training as well as a long-term solvency plan which is discussed further in the "Recent Legislative History, Action and Audits" section of this Background Paper.

The following is a breakdown of expenditures by program component of the Commission since FY 2010/11:

Expenditures by Program Component								
(dollars in thousands)								
	FY 2010/11		FY 2011/12		FY 2012/13		FY 2013/14	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	\$855	\$633	\$774	\$382	\$236	\$220	\$181	\$126
Examination	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Licensing	\$65	\$105	\$139	\$61	\$192	\$134	\$227	\$136
Administration	\$83	\$135	\$178	\$78	\$216	\$115	\$194	\$117
DCA Pro Rata	\$0	\$175	\$0	\$212	\$0	\$189	\$0	\$213
TOTALS	\$1,003	\$1,048	\$1,091	\$733	\$644	\$658	\$602	\$592

Licensing

The Commission licenses a number of individuals related to the participation in, oversight for, and management of events in California. The Commission does not require any *formal* education requirements for licensure of fighters, promoters, managers, seconds, matchmakers, referees, judges and timekeepers. However, licensees must possess a minimum level of skill to enable them to safely compete against one another and demonstrate their ability to perform. Licensees who do not fall into the combatant category such as referees, judges, timekeepers and ringside physicians (who are approved by the Commission) must have adequate knowledge of laws and rules so as not to jeopardize the health and safety of athletes. Many of the Commission's licensees must also pass competency exams provided by the Commission unless they are licensed in other jurisdictions. Fighters must also pass medical examinations that determine whether his or her health or safety may be compromised by licensure and participation in an event.

The Commission works with the ABC to conduct training and over the past two years has implemented policies requiring officials working title fights to have completed ABC or other approved training courses. The Commission also now makes many staff assignments based on the preparedness and education of an official, further promoting the importance of training and continuing education to protect fighters. The Commission maintains records of officials who have taken the appropriate training courses and ensures that competent officials are assigned to events by consulting these records, and does not staff who have not completed required and necessary training. The Commission is also in the process of working with the ABC to receive approval of a referee training course, as well as working with the national association to ensure the availability of more approved trainers eligible to work in California.

The following are explanations of the Commission's licensee population, as defined in statute, regulations, and the Commission's Standard Operating Procedures within the Commission Administrative Manual, as well as the licensing fees and numbers of licensees for each category:

- **Fighter** – Professional or amateur boxer or martial arts fighter or wrestler who engages in a boxing or martial arts contest and who possesses fundamental skills in his or her respective sport. Prior to licensure, fighters are evaluated by the Commission Chief Athletic Inspector (Chief AI) and EO on their skills and experience to determine their status as an amateur or professional and determine if they are qualified to be a Commission licensee. The evaluation may also occasionally include input from referees, judges, and other regulators from the ABC. A fighter must also undergo review by a physician licensed in California to determine physical and mental fitness for competition (*\$60 licensing fee*).

FIGHTERS	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Issued	151	327	1114	1039
Renewed	906	560	56	N/A
Total	1057	887	1170	1039

- **Promoter** – A corporation, partnership, association, individual or other organization which conducts, holds, or gives a boxing or martial arts contest, match or exhibition; an entity licensed by the Commission finally responsible for an approved event. Prior to licensure, a promoter must demonstrate financial stability by providing a recent Certified Public Accountant (CPA) financial statement showing liquid assets of at least \$50,000 and by

providing the Commission with a surety bond of at least \$50,000. Applicants are required to submit fingerprint cards or utilize the “Live Scan” electronic fingerprinting process in order to obtain prior criminal history criminal record clearance from the California Department of Justice (DOJ) and Federal Bureau of Investigation (FBI). The Commission makes a final determination as to whether an applicant should be licensed as a promoter (*\$1000 licensing fee for professional promoters and \$250 licensing fee for amateur promoters*).

PROMOTERS	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Issued	21	27	44	28
Renewed	43	34	17	13
Total	64	61	61	41

- **Manager** – A person who is paid to act as the athlete’s agent or representative, an individual who directs or controls the professional boxing or martial arts activities of a fighter, an officer, director, shareholder or organization which receives more than 10 percent of a fighter’s purse for services relating to the person’s participation in an event. Prior to licensure, a manager must include a statement of all persons connected with, or having a proprietary interest in, the management of a fighter and the application must be signed under penalty of perjury by the sole proprietor, a general partner or officer of the corporation or association. Managers must submit changes in proprietary interest or shareholders in writing. A manager must pass a written exam administered by the Commission on the fundamentals of sports regulated by the Commission, management of fighters and laws and regulations related to the sports. This written exam requirement may be waived if the applicant is licensed as a manager in another state and has not been subject to disciplinary action (*\$150 licensing fee*).

MANAGERS	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Issued	33	50	93	82
Renewed	40	27	6	39
Total	73	77	99	121

- **Second** – Also referred to as a “corner man,” a person who aides and assists a fighter between rounds. Prior to licensure, a second must pass a written exam administered by the Commission on the fundamentals of sports regulated by the Commission and laws and regulations related to the sports. Applicants for licensure as a second must also demonstrate the duties of second before a Commission representative. Both the written and demonstration requirements may be waived if the applicant is licensed as a second in another state and has not been subject to disciplinary action (*\$50 licensing fee*).

SECONDS	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Issued	384	369	2230	2100
Renewed	1411	1392	N/A	N/A
Total	1795	1761	2230	2100

- **Referee** – Also known as an official, the boxing or MMA referee is a person who directs and controls contests and enforces the rules governing a contest, standing in the ring to ensure a contest’s fairness and the fighters remain able to compete. Prior to licensure, referees and judges are evaluated on skills, experience and training, continuing education development, and records of that individual’s historical accuracy (based on ABC judging surveys) when

available. The EO makes a recommendation to the Commission about an individual's suitability for licensure, however the Commission makes a final determination as to whether an applicant should be licensed as a referee or judge. Individuals who have taken the ABC Certified Trainer courses and passed the accompanying Certified Trainer exam may have increased desirability as an official in California, given the additional education and instruction these applicants receive through the ABC course. Referees for boxing and MMA must meet the following requirements: have two years documented experiences refereeing matches, be physically and mentally fit as determined by a physician with at least 20/100 vision in both eyes; be in good physical condition, pass a written exam administered by the Commission on the fundamentals of sports regulated by the Commission and laws and regulations related to the sports, demonstrate competence by refereeing a match before a Commission representative and two licensed referees and demonstrate competence in judging by judging at least 50 contests. These requirements can be waived if the applicant is licensed or approved as a referee by the World Boxing Association, World Boxing Council, North American Boxing Foundation for boxing referee applicants and the Professional Kickboxing Association or the World Kickboxing Association for MMA referee applicants (*\$150 licensing fee*).

REFEREES	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Issued	2	8	34	0
Renewed	23	35	2	45
Total	25	43	36	45

- **Judge** – A person who scores contests. Prior to licensure as a judge, an individual must have been licensed in California for at least five years and pass a written exam administered by the Commission on the fundamentals of sports regulated by the Commission and laws and regulations related to the sports. This written exam requirement may be waived if the applicant is a judge in another state or country and has not been subject to disciplinary action (*\$150 licensing fee*).

JUDGES	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Issued	5	8	6	0
Renewed	36	32	1	54
Total	41	40	7	54

- **Timekeeper** – A person who keeps time for an event. Prior to licensure, a timekeeper must pass a written exam administered by the Commission on the fundamentals of sports regulated by the Commission and laws and regulations related to the sports. Applicants for licensure as a timekeeper must also demonstrate the duties of timekeeper before a Commission representative. Both the written and demonstration requirements may be waived if the applicant is licensed as a timekeeper in another state and has not been subject to disciplinary action (*\$50 licensing fee*).

TIMEKEEPERS	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Issued	0	1	10	5
Renewed	13	11	0	14
Total	13	12	10	19

- **Matchmaker** – Is a person who proposes, selects and arranges a fight and the fighters participating in that event. Prior to licensure, a matchmaker must pass a written exam administered by the Commission on the fundamentals of sports regulated by the Commission and laws and regulations related to the sports. The exam requirement may be waived if the applicant is licensed as a timekeeper in another state and has not been subject to disciplinary action (*\$200 licensing fee*).

MATCHMAKERS	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Issued	5	10	11	7
Renewed	5	3	1	7
Total	10	13	12	14

- **Professional Trainer** – A person responsible for signing off on the application of any professional fighter debuting who is accountable for possible poor performance of the fighter a professional trainer can help determine when an amateur is ready to turn professional. This level of expertise could be helpful for many reasons. However, this may not be currently practical as the Commission does not have the budget, and perhaps the expertise, to send an Athletic Inspector to a gym to observe an athlete and determine if he/she is ready to turn professional. This determination is best made between a reputable professional trainer and the athlete. (*\$200 licensing fee*).

PROFESSIONAL TRAINERS	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Issued	0	0	0	22
Renewed	0	0	0	0
Total	0	0	0	22

The Commission also approves physicians who attend events to administer pre-fight medical examinations for fighters and referees, serve as primary emergency care physicians during contests and evaluate fighters after contests, recommending appropriate medical testing and suspensions as necessary.

Boxers are issued a federal identification card (Federal ID) per the Federal Act and State Act that contains a number assigned to the fighter, the fighter’s date of birth, height, weight and photo. These Federal IDs are issued by the state commission in which a boxer resides and are valid for four years from the date of issuance (the Commission issues Federal IDs for California-based fighters). MMA fighters may be issued a National Identification Card (National ID) that contains a number assigned to the fighter, the fighter’s date of birth, height, weight and photo. National IDs can only be issued by a state commission or tribal commission in good standing with the ABC and while these are not mandatory they are recommended by the ABC.

For boxing fighters, promoters and trainers, fightfax.com is the official national boxing registry designated by the ABC in compliance with the Federal Act. This online database provides information on suspensions, information, and license revocations. The Commission checks this database prior to issuance of a license related to boxing and reports outcomes from California to the database. For MMA, mixedmartialarts.com, administered by Mixed Martial Arts, LLC, is a database used by athletic commissions under the ABC umbrella to verify event results and fighter suspension information as a safety measure to ensure that fighters issued a medical suspension in one state are not authorized to

fight in another state and potentially harm their health and welfare until they have served the term of their suspension. In addition to medical and administrative suspension data, the database contains statistics, upcoming bout cards, bout results, comments from commissions, and total fighter bout results. This database also has the ability to issue National IDs. The Commission consults the database prior to issuance of a license related to MMA.

The Commission may receive deficient applications for licensure and subsequently works with applicants to obtain missing information. While much of the evaluation of and background for an application approval takes place in the Commission's Sacramento office headquarters, due to the fluidity of the sports regulated, as well as the schedules of athletes participating in events, the Commission may also issue licenses at an event, or at the pre-event weigh-ins. The Commission has the ability to grant temporary licenses pending investigation of the qualifications or fitness of an applicant, however, these temporary licenses do not assume that an applicant will meet the requirements of licensure and may be terminated in the event the Commission denies licensure.

Enforcement

The Commission's enforcement activity differs greatly from the scope, methods and procedures used by other programs within the DCA. While other entities at the DCA are subject to the Administrative Procedures Act (APA), due to the nature of the Commission regulated sports and the profession of fighters within these sports, the Commission is not subject to APA. Instead, it has direct disciplinary authority to issue immediate suspensions and fines to ensure violations by Commission licensees are handled and reported quickly. The Commission also has the ability to issue cease and desist orders for unauthorized, illegal events in addition to the suspensions and license revocations for violations of the State Act and accompanying Commission regulations and rules. The Commission partners with the Office of the Attorney General (AG) when license revocations, suspension or application denials are appealed. The Commission also conducts arbitrations for its licensees when disputes arise within either the boxer-manager or boxer-promoter agreements and has sole authority over these arbitration proceedings.

During the last four years, a total of 11 licensing enforcement matters were handled by the AG's Office on behalf of the Commission. These matters consisted of arbitrations between boxers or MMA fighters and their managers and/or promoters. Administrative appeal cases before the Commission all dealt with license suspensions or revocations based on positive drug testing.

YEAR	ARBRITRATIONS	APPEALS
2011	1	8
2012	2	6
2013	3	0
2014	5	0

The Commission's citation and fine option allows the Commission to penalize licensees rather than pursue formal discipline for less serious offenses, or offenses where probation or license revocation is

not appropriate. According to the Commission, the most common violations which result in a citation and fine are:

- Weighing more than authorized for an approved contest.
- Testing positive for performance enhancement substances.
- Conduct that brings discredit to combative sports or the Commission.
- Unlicensed activity as a promoter.
- Testing positive for other illegal substances such as marijuana or methamphetamine.

The Commission also works to take action against unlicensed activity, relying primarily on reports from licensed stakeholders of any events or actions that appear to be unlicensed activity. The Commission staff investigates complaints of unlicensed activity, reports of which may also come to the Commission via a link on its website and scanning by the Commission staff of popular boxing and MMA websites and blogs for mention of illegal activity. When unlicensed activity does occur, the Commission staff coordinates with DCA's Division of Investigation (DOI) or local law enforcement. The Commission also issues cease and desist notices and letters to further deter illegal activity.

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." If authority over regulation of an amateur sport is delegated to a qualified nonprofit organization, the Commission must conduct an annual review. Further, because the Commission has the "sole direction, management, control of, and jurisdiction over all professional and 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," the delegated organization's oversight is limited to those sports.

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, 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 four different organizations:

- *USA Boxing, Inc.* 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 (LBCs): 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 and; Southern California Association serving Ventura, Los Angeles, San

Bernardino, Orange, Riverside and Santa Barbara counties. The Commission receives regular reports from USA Boxing in writing and at meetings as well as sends inspectors at random to USA Boxing sanctioned events. The Commission recently devised a protocol for oversight of USA Boxing which requires extensive review of USA Boxing reports provided to the Commission and regular appearances by each of the four Local Boxing Clubs at Commission meetings.

- *The California Amateur Mixed Martial Arts Organization (CAMO)*. CAMO was founded in 2009 as a non-profit corporation dedicated to help foster the growth of the sport of amateur MMA and to oversee the health, safety and welfare of the athletes that choose to participate in it. In 2009, the Commission delegated its regulatory authority for amateur MMA to CAMO. CAMO recently restructured its leadership and submitted a series of detailed reports to the Commission in response to concerns about operations. The organization is now subject to more regular and consistent oversight by the Commission to ensure that the Commission is aware of all aspects of the organizations work to oversee amateur MMA events and protect the well-being of amateur MMA athletes.
- *The United States Fight League (USFL)*. In March 2009, the Commission first expressed concern about youth pankration events in California, specifically that head strikes were taking place and the events were not regulated. Youth pankration is addressed below under the “Recent Legislative History, Audits and Prior Sunset Review” section of this Background Paper. In 2014, the Commission delegated its authority for youth pankration event oversight to USFL, ensuring that the organization’s safety requirements meet or exceed those of the Commission. USFL states that its mission is to promote good discipline, citizenship and sportsmanship through youth athletics by facilitating safe and affordable martial arts competition opportunities and promoting a healthy lifestyle for all licensees. The Commission requires USFL to provide the Commission monthly reports detailing events, injuries, payments and results.
- *The International Kickboxing Federation (IKF)*. In response to a Commission analysis of profit and loss related to the Commission’s regulation of small events that outlined consistent financial losses for the Commission to regulate amateur kickboxing, the Commission began exploring the feasibility of delegating its authority for regulation of these events. The EO reported to the Commission that this action would not only be cost effective and practical but would also increase the safety of these events, as the Commission only had limited access to kickboxing databases and a sanctioning body had the potential to do a better job on the Commission’s behalf. In March 2014 the Commission voted to delegate its authority for amateur kickboxing and amateur Muay Thai to IKF on a six month limited term basis in order to conduct oversight and fully review the organization’s performance. During that time, the organization oversaw 15 events and provided the Commission with the safety standards and financial outcomes for those events at a subsequent meeting. IKF was authorized to continue to regulate amateur kickboxing events for an additional six months, at which time the Commission will determine whether IKF should be delegated permanent authority for these events.

RECENT LEGISLATIVE HISTORY, AUDITS AND PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS

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. Regulated events can provide higher levels of protection for fighters than unauthorized or illegal events, and potentially provide revenue for the state and the local economy where events take place.

In 2004, after a thorough review of the Commission, the Joint Legislative Sunset Review Committee (JLSRC) and the 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 the 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 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.
- Potential for major economic losses to the state.

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.

The Senate Committee on Business, Professions and Economic Development (Senate BPED) 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, the Senate BPED Committee members were especially concerned with the process and procedures by which the Commission delegated its authority for amateur MMA regulation. SB 294 (Negrete McLeod, Chapter 695, Statutes of 2010) extended the sunset date for one year, from January 1, 2011 to January 1, 2012.

The Commission was reviewed again by the Senate BPED Committee in 2011 as part of the Sunset Review process. At the time, the Commission appeared to be making some strides in meeting the many challenges it consistently faced with effective day-to-day operations, as well as appeared to be improving and on the road to implementing necessary systems and procedures to efficiently support its mission and statutory health and safety promotion mandates. The Commission finally completed a Strategic Plan which was submitted to the Legislature in December 2010, held regular meetings with little quorum problems and filled vacancies in key leadership and staff positions. It appeared that for the first time in many years, the Commission was not beleaguered with turmoil in personnel, issues involving conflicts of interest, and inappropriate activities on the part of staff. The Commission also

reported that it was holding more frequent and regular trainings and informational sessions offered for field staff, covering a more consistent set of subjects, and finally convening the bi-annual training sessions as outlined in statute to ensure that field staff understood their responsibilities and duties relative to all applicable laws and regulations. The Commission went 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, including clarifying rules for MMA. SB 543 (Price, Chapter 448, Statutes of 2011) extended the sunset date for 2 years, from January 1, 2012 to January 1, 2014.

Reports of problems with Commission operations and the potential impact to fighters and licensees continued to be raised during 2011 and 2012, the most substantial stemming from the aforementioned budget woes. As part of its role to investigate under The California Whistleblower Protection Act (Whistleblower Act), the Bureau of State Audits (BSA) reported on improper governmental activities by agencies and employees of the state in 2012, highlighting overpayment by the Commission to 18 part-time field inspector staff totaling \$118,700 from January 2009 through December 2010, because it inappropriately paid them an hourly overtime rate rather than an hourly straight-time rate for work they performed. BSA completed a subsequent review of the Commission in response to a request by the Joint Legislative Audit Committee (JLAC) in June 2012, the results of which are contained in a report published March 2013 “*State Athletic Commission: Its Ongoing Administrative Struggles Call Its Future Into Question*”. The report found that: (1) The Commission’s solvency plan may not be practical; (2) The Commission does not track information about projected revenue and expenditures in a manner conducive to proper budgeting; (3) The Commission does not receive all of the revenue due from events and athletes; (4) Inspectors may not perform necessary health and safety regulatory functions at events; and, (5) The Pension Fund is still not administered properly. Simultaneously, the DCA conducted an internal audit of the Commission, the findings of which are contained in a report published in March 2013, “*California State Athletic Commission Operational and Administrative Control Audit*” which also found numerous deficiencies in Commission operations, particularly those related to event regulation and revenue reconciling for events.

The Commission was reviewed again in 2013 by the Senate BPED Committee, in conjunction with the Assembly Committees on Arts, Entertainment, Sports and Media and Business, Professions and Consumer Protection. During the previous sunset review, the Committees raised 21 issues. In November 2014, the Commission submitted its required sunset report to this Committee. In this report, the Commission described actions it has taken since its prior review to address the recommendations made by the Senate BPED Committee. According to the Commission, the following are some of the more important programmatic and operational changes, enhancements and other important policy decisions or regulatory changes made. For those which were not addressed and which may still be of concern to the Committees, they are addressed and more fully discussed under “Current Sunset Review Issues.”

- **The Commission is doing a better job overseeing and managing its budget.** Plagued in the past with fiscal mismanagement and a lack of basic accounting principles, the Commission’s policies and processes for maintaining awareness about its budget have vastly improved. In 2014, the DCA presented a report required as part of the 2013-14 Budget that outlined efforts to stabilize the Commission’s fund, develop effective processes and procedures and evaluate all aspects of its operational capacity, including the development of a long-term solvency plan. According to the report, the Commission increased its fund reserve to ensure that it has resources to withstand the variable revenue in which it operates and reduced event expenditures to make most events’ revenue positive. The Commission has reduced costs and increased

efficiency at events to ensure that these run well while protecting athletes' lives. The Commission also increased the amount of revenue collected at various events, addressed multiple program deficiencies and requested necessary Executive Office staff.

In 2013, the Commission implemented the following administrative policy related to the Commission's budget:

Budget and Finance Duties of the Executive Officer:

1. The Executive Officer shall develop and maintain sound financial practices and communicate with the Commission on a monthly basis the Commission's short term and long term budget and financial strategies and state of financial condition.
2. The Executive Officer shall prepare and execute a budget at the direction of the Commission.
3. The Executive Officer shall advise the Commission on a monthly basis the funds that are available for the Commission to oversee boxing, kick boxing, mixed martial arts and martial arts in California.
4. The Executive Officer shall communicate with the Commission on a monthly basis the legal matters pending and upcoming involving the Commission, including but not limited to pending and anticipated litigation.

The EO now provides the Commission members frequent budget updates and works with the DCA to assess the Commission's revenue and expenditures on a regular basis. The Commission currently has a healthy fund condition and Commission members are both aware of the program's fund as well as exercise oversight for the management of the fund on a routine basis through weekly emails and at the Commission's public meetings.

It is unlikely that the Commission will become insolvent as it was in 2012 and similarly doubtful that Commission members would not be aware of any budgetary challenges facing the Commission.

- **The Commission has taken steps to ensure that the health and well-being of athlete licensees is a priority.**
 - *Extreme weight-cutting.* Significant and dangerous weight loss efforts leading up to a fighter's weigh-in before an event can result in dehydration and other negative health impacts like decreased kidney function and increased risk of brain injury, and can also hinder a fighter's performance in the event. The practice of losing a large amount of weight in a short period of time prior to a weigh-in, then gaining weight back in the 24 hours leading up to a fight, can also affect the outcome of a fight. The Commission conducted a study on over 500 licensees and determined that weight cutting was prevalent amongst these athletes.

As a means of preventing extreme weight-cutting for combat sports athletes, the Commission has taken steps to deter this dangerous practice. The Commission is working on altering its weigh-in procedures and requirements as well as implementing a progressive

disciplinary system that applies to all licensees, including, but not limited to, promoters and trainers. The Commission also recently issued a memorandum created in partnership with the Association of Ringside Physicians outlining the dangers of extreme weight-cutting, citing a study that found that 39 percent of MMA fighters were dehydrated at the time of their events. The memorandum advised fighters that, among other dangers of cutting their weight and dehydrating themselves, there are at increased risks of brain bleeds and concussion. The memorandum also encouraged athletes not to use extreme methods for making weight such as excessive heat methods (rubberized suits, steam rooms, saunas), excessive intense bouts of exercise, vomiting, laxatives and diuretics as well as not using dehydration as a mainstay of making weight due to other risks associated with improper rehydration techniques.

- *Youth pankration.* In response to widespread reports and media coverage of unregulated pankration events, as well as use of legal loopholes to escape Commission regulations, AB 1186 (Bonilla, Chapter 506, Statutes of 2013) provided that the Commission is authorized to regulate all forms of full contact martial arts contests involving participants 18 years of age or younger, including all forms and combinations of forms of full contact martial arts contests deemed by the Commission to be similar, and also clarified that an amateur contest includes a contest where full contact is used, even if unintentionally. The bill also created a subcommittee tasked with providing recommendations and findings on the regulation of youth pankration, a martial art that encompasses grappling, limited contact and full contact competitions. The Commission's Youth Pankration Subcommittee determined that youth pankration is a full contact activity, thus within the jurisdiction of the Commission to regulate and that the sport needs to be regulated to protect and assure the proper support and safety of the children and parents involved. The Commission ultimately determined that a more appropriate pankration-specific oversight body should oversee amateur pankration rather than CAMO. The Commission delegated its authority for youth pankration to USFL. Young athletes can now participate in the sport in a safe, regulated manner. The Commission approved certain limits to guarantee safety as well as requirements for pankration events, including: an age requirement of eight years old; the use of certain safety equipment like headgear, mouthpieces, shin guards and gloves; and the presence of an ambulance at events.
- *Brain damage study.* The Commission partnered with the Cleveland Clinic Lou Ruvo Center for Brain Health in Las Vegas on a study that will help determine whether diagnostic tests like the MRI, which is currently being used, is the best mechanism to detect subtle changes in brain health as a result of repeated strikes to the head like those sustained in combat sports regulated by the Commission, or whether there are other tests that can better allow researchers to identify if and when changes occur that may result in impaired thinking and function.
- *Testing for banned and performance enhancing drugs.* Over the past two years, the Commission has sharply increased the amount of random drug testing performed in California. All licensed fighters are required to submit to random drug testing by the Commission and regular drug testing if prior results showed evidence of a prohibited substance. In the event an athlete is found to have a banned substance in their system, the individual is not permitted to participate in a California regulated combat sport again until their suspension period has ended and the fine is paid. The individual also has to appear before the Commission and provide evidence of rehabilitation and fitness for licensure.

The Commission uses the World Anti-Doping Agency (WADA) thresholds to determine banned substance amounts and partners with the UCLA Olympic Analytical Laboratory to ensure the highest level of integrity for regulated combat sports. The Commission now also holds regular athletic inspector training to ensure that staff know how to properly collect samples and process paperwork in the wake of prior failures to effectively manage these efforts. The Commission's drug testing program is extensive, thorough and there have been no appeals to the Commission based on an athlete's positive test.

- **Issues related to athletic inspectors have been addressed.** These part-time officials are assigned to oversee various aspects of events held throughout the state and uphold the laws and rules governing these events. The Committees found that policies and procedures related to athletic inspector training, assignments and pay were not consistent with the Commission's health and safety mandate. Additionally, the Commission's challenges to define standards for training, hiring and assigning inspectors were questioned as well as the Commission's possible inability to staff events as necessary to ensure the safety of athletes due to budget cuts.

In response to recommendations that the Commission explain how it hires, assigns and evaluates inspectors, the Commission recently partnered with the DCA's Human Resources Division, to develop an Athletic Inspector Open Examination in order to appropriately test the knowledge, skills and ability of candidates interested in serving as Commission inspectors. The 2012-13 budget authorized the Commission to receive additional expenditure authority related to inspector and inspection costs, provided that sufficient revenue be available. The Commission states that it believes that five to seven inspectors are required to safely oversee an event and received a budget augmentation of \$50,000 for FY 2014-15 in order to ensure adequate staff training and to increase inspections. The Commission now requires that inspectors attend Commission training sessions and regularly evaluates inspectors in order to assign them to events based on competence, experience, and their ability to perform based on the complexities of an event.

In response to past criticism of wasting Commission resources to send inspectors from one part of the state to staff events in another part of the state, the Commission now also takes into consideration an inspector's geographical proximity to an event prior to assignment. The Commission is now using a website geared toward effective athletic event management and making assignments based on established criteria, such as participation in required training. The Arbiter Sports website assists the Commission by quickly locating the nearest inspectors to each event which greatly contributes to reductions in staff travel costs, an issue which has historically plagued the Commission.

- **Oversight of amateur events and the Commission's oversight of entities to which it has delegated its authority has improved.** The Commission created subcommittees dedicated to conducting regular and ongoing communication with and oversight for USA Boxing and CAMO, efforts which have historically not be a Commission priority. The Amateur Boxing Oversight Subcommittee diligently examined USA Boxing for close to one year, including multiple meetings with USA Boxing leadership after years of problems at USA Boxing events and failure by the organization to provide the Commission information. USA Boxing is now submitting timely reports to the Commission and complying with the Commission and State Act's health and safety requirements. The Commission has inspected several USA Boxing

events and continues to perform ongoing monitoring of the organization as well as events it puts on.

The Commission also created an Amateur MMA Oversight Committee which conducted a detailed review of CAMO's operations. Based upon recommendations from the subcommittee, CAMO restructured its leadership and submitted a series of detailed reports to the Commission. Under the new leadership at the organization and better reporting to the Commission about the work CAMO does in overseeing amateur MMA in California, amateur MMA athletes are competing in a safe regulated environment.

The Commission also works to take swift action when possible violations of safety standards at amateur events occur, such as a lack of an ambulance or the absence of other key athlete protection and is working to establish monthly check-ins with organizations that have authority over amateur sports and athletes.

- **Inappropriate activity by Commission staff is monitored and has waned.** The Commission no longer struggles to ensure proper and professional behavior of all staff including part-time officials and event inspectors. The Commission has undergone an Executive Office restructuring, including the hiring of many new staff members since the prior review. The Commission now prohibits state employee office staff to serve as Commission inspectors at events. Commission Executive staff also comply with the progressive discipline procedure as outlined by the DCA Human Resources division for disciplinary actions. Staff are now subject to increased mandatory training and face an objective (rather than subjective as the Commission previously operated) set of criteria implemented to determine event inspection assignments.
- **The Commission is in compliance with open meeting requirements and members are meeting the requirements of state conflict of interest laws.** The Commission is meeting requirements for proper notice and posting of meetings, as well as the availability of agendas and meeting materials to Commission members and members of the public. The Commission is working to ensure that its listserv is accurate in order to provide notification electronically to stakeholders about upcoming meetings, trainings and Commission information sessions. Commissioners attend orientation training in order to better understand their roles, rules governing meetings as well as standards of ethical conduct. Commissioners have all attended DCA-provided Ethics courses, are aware of requirements under the Political Reform Act related to disclosures and have all filed an annual Form 700 report.
- **Payments to the national MMA database are being made and important fighter health information is being reported to, as well as accessed from, the database.** The Commission relies on information about fighter health and safety and bout results contained in national databases yet historically failed to make payments to the national MMA database and also was not appropriately reporting the results of California MMA events. In response, the Commission has signed a contract with MMA LLC, the owner of mixedmartialarts.com, and is currently making payments for the use of the database. The Commission currently receives information from the database as well as reports information to this important database.

- **Improvements have been made in the Commission’s public communication efforts to keep licensees and stakeholders informed.** The Commission is doing a better job of providing information to boxers and MMA fighters about certain protections they are eligible for in their professional relationship with promoters, as well as other basic rights they have as fighters in this state. The Commission has posted the Professional Boxers’ Bill of Rights, as adopted by the ABC, on its website and through various social media outlets. The Commission is also working with the organizations to whom it has delegated its authority for regulation of amateur combat sports to ensure that amateur fighters also receive pertinent health and safety information.
- **Professional trainers license implemented.** SB 309 (Lieu, Chapter 370, Statutes of 2013) created a professional trainers license that provides increased accountability to the Commission on behalf of a professional athlete while also providing additional expertise in determining when an amateur fighter is ready to turn professional and allowing the Commission to evaluate possible poor performance of a fighter, and take action against not only the fighter but also the professional trainer associated with that fighter.
- **Additional staff has been added.** While the Commission continues to have vacancies, it has, since the last Sunset Review, hired an Assistant Executive Officer with a background in board administration and familiarity with the DCA who has been able to help guide some of the internal office operations for the Commission and assist in the rulemaking process.

CURRENT SUNSET REVIEW ISSUES

The following are unresolved issues pertaining to this Commission, or areas of concern for the Committees 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: (OUTDATED TECHNOLOGY SYSTEMS AND THE IMPLEMENTATION OF BreEZe.) The Commission historically has had woefully outdated systems and conducts the bulk of its record keeping on Excel spreadsheets. The Commission is also included in the *last* phase of the rollout for the DCA’s new computer system, the BreEZe Project, the timeline for which is uncertain given the challenges DCA is having implementing that system.

Background: The DCA has been working to establish a new integrated licensing and enforcement system, BreEZe, which would also allow for licensure and renewal to be submitted via the internet. BreEZe is intended to replace the existing outdated legacy systems and multiple “work around” systems with an integrated solution based on updated technology. The goal is for BreEZe to provide *all* the DCA organizations with a solution for all applicant tracking, licensing, renewal, enforcement, monitoring, cashiering, and data management capabilities. In addition to meeting these core DCA

business requirements, BreEZe aims to improve the DCA's service to the public and connect all license types for an individual licensee. BreEZe is slated to be web-enabled, allowing licensees to complete applications, renewals, and process payments through the Internet. The public would also be able to file complaints, access complaint status, and check licensee information.

According to the original project plan, BreEZe was to be implemented in three releases. The budget change proposal that initially funded BreEZe indicated the first release was scheduled for FY 2012–13, and the final release was projected to be complete in FY 2013–14.

In October 2013, after a one-year implementation delay, the first ten regulatory entities were transitioned to the BreEZe system. Release Two is scheduled to go live in March 2016, three years past the initial planned release date. As a result of significant cost and implementation concerns, among others, DCA reported in late 2014, that the current vendor contract is no longer in place, and those regulatory entities that were scheduled for Release Three, including the Commission, will not transition to the current BreEZe system.

The DCA previously reported to the Senate BPED Committee that staff from all of the DCA's programs have participated in development and testing of BreEZe and continue to do so. None of the Special Project Reports submitted by the DCA for BreEZe from the past year included costs for the Release Three boards, raising the possibility that the DCA knew the Release Three entities like the Commission would be cut from BreEZE planning, however BreEZe costs continued to be assessed on the Commission and other Release Three boards. The Commission is projected to continue to have money assessed related to BreEZe in coming fiscal years despite there being no timeline for the Commission to even begin to meet with project representatives about the Commission's unique needs, let alone a plan for updating the Commission's systems.

To date, there remains no current, viable information system for the Commission, nor does it appear one will be available anytime in the near future, that encompasses all licensees, including information which is the basis for licensure and ability to participate in events and captures particulars about officials. The Commission relies on Microsoft Excel spreadsheets to capture and maintain licensee, event and other key information involved in its oversight of combat sports in the state. The Commission foresees that it will be able to have laptops or tablets available for use on-site at events that will be integrated with BreEZe in order to speed up processes like licensing at weigh-ins while also ensuring proper record keeping at these events. A viable system would also speed up important processes like the 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 and a lack of available technology to the Commission and lack of sound records it is able to keep has multiple negative effects.

Staff Recommendation: *The Committees need to better understand what the plan is for a unique Release Three program for the Commission which has entirely separate licensing needs, database requirements and tracks totally different information and outcomes than any other DCA entity. The Committees could also benefit from understanding what exactly the ongoing cost implications will be for the Commission related to the BreEZe project and how this will impact their already challenging budget situation and revenue and expenditure authority.*

ISSUE #2: (EVENTS HELD ON TRIBAL LAND.) These events are not required to be overseen by the Commission. Can the Commission do more to promote safety at events on tribal lands? Is the Commission able to track outcomes and possible athlete injuries at these events to ensure they are not licensed by the Commission to fight if they have been injured at an event held on tribal land?

Background: Issues have arisen in the past concerning safety problems and potentially dangerous bouts taking place on federal tribal land. The Federal Act authorizes a tribal organization to regulate professional boxing matches held within the reservation under the jurisdiction of that tribal organization and carry out that regulation or enter into a contract with a boxing commission to carry out that regulation. The Federal Act also specifies that if a tribal organization regulates professional boxing matches it must, by tribal ordinance or resolution, establish and provide for the implementation of health and safety standards, licensing requirements, and other requirements relating to the conduct of professional boxing matches that are at least as restrictive as the otherwise applicable standards and requirements of a State in which the reservation is located or the most recently published version of the recommended regulatory guidelines certified and published by the Association of Boxing Commissions.

Events on tribal land are not considered to be events held in California that require Commission oversight but rather the Commission may regulate these events at the request of the tribal council or promoter holding an event on tribal land. The Commission oversees these events upon request from the promoter or tribal council, the authority for which is confirmed through a contract to provide services that the DCA legal counsel keeps on file. For each of the events the Commission oversees on tribal lands, it takes in a flat rate of \$4200; \$3000 to the Commission's Administrative Support Fund, \$600 to the Pension Fund and \$600 to the Neuro Fund. According to the Commission, when it regulates an event on tribal lands, the same medical, health and safety standards exist as they would for any other event the Commission regulates. There are the same requirements for a promoter to have insurance, the same requirements for the presence of a physician and the same requirements for availability of an ambulance. Results from events held on tribal land are only posted to national databases when they are regulated by the Commission.

In 2014, the Commission regulated 22 events on tribal lands, however, it is not able to report the number of events that may be taking place without oversight. It would be helpful for the Committees to better understand how the Commission can work with event organizers to outline best practices and guarantee certain basic safety standards, such as reporting the outcome of even those events the Commission does not regulate, into national databases. The Commission could also significantly benefit from the input of a Commission member or other Commission partner who has familiarity with tribal issues.

Staff Recommendation: *The Commission should explain to the Committee how it works to promote important health and safety standards for all events in the state, including those which are held on tribal lands and not directly overseen by the Commission .*

ISSUE #3: (LICENSEES SERVING AS COMMISSIONERS.) Questions have been raised as to why Commission licensees are not appointed to the Commission and that as a result, the Commission may not always receive their valuable input.

Background: The Commission is comprised of seven members. There are no qualifications for an individual appointed to the Commission; however Business and Professions Code Section 18602(a) provides that no person currently licensed as a promoter, manager or judge, may serve on the Commission. This provision conforms to conflict of interest provisions in the Federal Act that specifically prohibit a member of a boxing commission or person who administers or enforces State boxing laws from belonging to, contracting with, or receiving any compensation from any person who sanctions, arranges, or promotes professional boxing matches or who otherwise has a financial interest in an active boxer currently registered with a boxer registry.

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 Commission is required to “invite testimony from boxing stakeholders to identify actions that may lead to greater opportunities for its licensees to participate in major professional championship boxing contests in the State of California” and has additionally taken steps to reach out to certain stakeholder groups on sport-specific issues.

Staff Recommendation: *The Commission should explain whether there are additional stakeholder outreach steps it can take to consult with its licensee population as well as ensure that licensees are aware of Commission activities, rules and increased safety efforts.*

ISSUE #4: (MEDICAL ADVISORY COMMITTEE QUORUM.) Are changes to the State Act necessary to ensure that this important committee meets on a regular basis?

Background: The State Act creates an Advisory Committee on Medical and Safety Standards consisting of six licensed physicians who are appointed by the Commission. The Commission believes that in order for the Committee to receive a quorum, a majority of appointed members must be present, which means that four of the six members must attend meetings. This Committee does not always even have six member appointees who would be eligible to attend these important meetings where guidance on key safety issues is discussed and recommendations are agreed upon to submit to the Commission as a whole. A quorum is required for governing bodies to meet and conduct official business or take official action such as voting on agenda items. It is unclear whether this important advisory committee can only meet if a quorum is achieved or if the committee, the meetings for which are noticed publicly, can meet with, for example, only a majority of the appointed members present.

Staff Recommendation: *The Commission should inform the Committees of any barriers to regular advisory committee meetings. The Committees may wish to make necessary changes to the State Act to clarify how, when, according to what requirements for public meetings and under what circumstances this important Committee can meet.*

ISSUE #5: (TECHNICAL CHANGES MAY IMPROVE EFFECTIVENESS OF THE STATE ACT AND COMMISSION OPERATIONS.) There are amendments to the Act that are technical in nature but may improve Commission operations and the enforcement of the Act.

Background: Identified instances where technical clarification may be necessary:

- Clarify that athlete licensees are subject to drug testing throughout the period of their licensure rather than only connected to an event.
- Clarify that blood and urine samples are both acceptable for drug testing.
- Obsolete references and code cleanup.

Staff Recommendation: *The Committees may wish to amend the Act to include technical clarifications.*

COMMISSION BUDGET ISSUES

ISSUE #6: (LACK OF STAFFING.) The Commission has been operating according to a solvency plan that may not provide enough staff for the Commission to do its job.

Background: The issue of the Commission's staffing has continued to be of concern during past Sunset Reviews, audits and budget discussions about appropriate expenditures. Athletic inspectors in particular perform a critical function in overseeing the safety of events and well-being of licensees at events. Inspectors facilitate key aspects of an event, including all of the pre-bout activities like weigh-ins and proper hand wrapping and ensuring only authorized individuals are in locker rooms. Inspectors also must be present in order for fighters to get paid after a fight. If too few athletic inspectors are assigned to an event, key fighter safety protections may be overlooked. At the time of its last Sunset Review, the Commission reported that it was typically working with four inspectors per event by making internal staffing shifts and authorizing staff present at events to perform one duty if they are not doing something else, such as requiring a referee who is present but not in the ring overseeing a bout to assist with the ringside inspections, a practice common in other states. Previously, the EO and the Chief Athletic Inspector, a position that is now vacant, may also have served as the lead inspector for an event when they are in attendance, further reducing the need to assign additional athletic inspectors. The Commission has previously advised that five to seven inspectors is ideal for seamless, safe event oversight.

The Commission is still operating with a very lean staff, as a result of mandatory staffing cuts necessary to increase the Commission's fund condition stability. The Commission has undergone a tremendous amount of change in staffing over the last several years. The Commission has recently reclassified two office technician positions to staff service analyst positions and transferred the important matchmaking duties of the Chief Athletic Inspector to the EO.

While the Commission has taken steps to determine the necessary number of staff to ensure proper oversight of events and received spending augmentations to hire these individuals, as well as maintains that its FY 2014-15 spending authority is sufficient to meet its needs, the Commission appears to be doing more with less. It is important for the Committees to understand whether the Commission should seek additional resources like fee increases in certain licensure categories or elsewhere to ensure that it has the revenue, authority to spend and proper staff to fulfill its important mission.

Staff Recommendation: *The Commission should explain whether it can effectively protect fighters and oversee events with its current spending authority and other staffing needs it has to improve operations and promote fighter safety.*

ISSUE #7: (FLUIDITY IN REVENUES AND EXPENDITURES.) The Commission's revenues are not predictable, not always stable and fluctuate greatly depending on the number of combat sporting events held in California for which the Commission provides oversight. Does the Commission need more flexibility in its spending authority?

Background: The Commission historically has come under scrutiny for years regarding challenges in properly evaluating what it costs to oversee an event and how much revenue an event brings in. In 2013, it implemented a new revenue and expenditure tracking and projection methodology whereby all events are categorized into six different classifications based on the amount of projected revenue. Event costs are then projected based on the number of athletic inspectors assigned. Each month the EO reconciles the actual event revenues and expenses with those projections. The Commission also developed a revenue forecasting methodology that accurately predicted total event revenue for past fiscal years and began using this to help predict revenue as well as tracking figures according to this new system to ensure that expenditures remain less than revenues.

However, the Commission is not able to adequately predict revenues over time in the manner that other licensing boards do, given the fluid nature of the Commission licensing revenues and fluctuations in the sports that may dictate when events do or do not take place. The budget process requires that estimates be made many months in advance in order for the Commission's spending authority to be approved. Over sixty percent of the Commission's revenue in 2012-13 came from just two sources. The Commission could be facing a completely different fund situation if events put on by those two promoters did not take place in California.

One additional factor compounding the Commission's unpredictable fund is the payment of pro rata to the DCA. Through its divisions, DCA provides centralized administrative services to all boards, committees, commission and bureaus. The DCA, like the programs it oversees, does not receive any General Fund support thus most of these services are funded through a pro rata calculation that is based on "position counts." Other functions (call center services, complaint resolution, and correspondence unit) are based on past year workload. However, the Commission, the only program at DCA whose mission is to protect its licensees rather than protect the public from its licensees, is unique and may not use all of the services it pays pro rata for and when the Commission was experiencing a severe cash-flow crisis that threatened to shut down the entire operation and the Commission's staff were significantly reduced, DCA's pro rata charges were not immediately adjusted. It would be helpful for the Committees to understand how the Commission's pro rata charges are adjusted and whether, when the Commission brings increased revenue or receives important increased spending authority to protect the welfare of participants, it is subsequently charged higher pro rata.

Staff Recommendation: *The Commission should explain whether its inability to adjust expenditures on an ongoing basis, and budget process delays in changing its spending authority on a regular basis, impede its health and safety efforts. The Committees need to understand what services the Commission receives from the DCA as part of its pro rata payments and how these payments impact the Commission's fund condition. The Committees need to understand how the*

Commission's pro rata is adjusted and whether pro rata payments go up when the Commission receives higher revenue. The Committees need to understand whether the Commission is subject to performance based budgeting, as is the case with all other DCA entities, and how performance based budgeting can be applied to the Commission, considering that their enforcement and licensing program does not match that, or the goals of other DCA entities.

ISSUE #8: (DRUG TESTING COSTS.) The Commission conducts costly, important drug testing but at the same time may not be collecting enough money in fines to deter problematic behavior by its licensees that could in turn be used to continue to pay for these tests. Does the Commission need to increase its fines to the statutory \$2500 limit, or are there other options? Does the Commission need flexibility to spend monies collected from substance abuse violations on additional testing?

Background: The Commission currently has one of the most thorough drug testing programs in the regulated combat sports landscape but maintaining this important effort has high costs associated with it. The Commission's cite and fine ability allows for punishment to licensees for violations of the law that while significant, may not be serious enough to warrant license suspension. Fines are used as a penalty and are usually accompanied by a suspension or order to correct conduct. They are commonly issued against fighters for using prohibited substances and conduct that brings discredit to combative sports or the Commission. The Commission's current fines may not be deterring certain activity and may not be strong enough to make any kind of impact to professional fighters receiving high salaries. The Commission has also struggled to establish consistency in its citation and fine program, sometimes assigning small fines to certain fighters for some violations and large fines to others for similar violations.

The Commission has explored seeking increased authority to collect fines so that it can more effectively discipline its licensees, specifically by basing the amount of a fine on a percentage of the fighter's purse. Some athletes receive over six figures to participate in bouts, and paying a \$2500 fine for use of an illegal substance does not make a dent in their earnings, thus potentially perpetuating use of the banned drugs without any noticeable penalty. The Commission believes that having this option will provide a greater level of deterrence for highly paid athletes. Other states like Nevada take 3-40 percent of a fighter's purse for the event where the violation occurs.

While the Commission does receive revenue in the form of fines for any detection of banned and illegal substances, the Commission is not able to then access those funds or assess the impacts of those monies on their ability to continue to conduct drug testing until the next budget cycle. It may be helpful for the Commission to be provided authority to contract for a fee with event promoters who would like for the Commission to perform additional drug testing that exceeds the Commission's normal numbers. It may be helpful for the Commission to have flexibility in its spending for certain instances related to its public protection mission, such as drug testing.

Staff Recommendation: *The Committees should authorize the Commission in statute to adjust its fine collection abilities so that it may collect a percentage of a fighter's purse for certain substance abuse violations. The Commission should explain how it will ensure consistency in its fines and enforcement and punitive efforts. The Committees may wish to amend the State Act to allow the Commission to spend revenue resulting from fines for banned and illegal substance detection in order to continue to perform drug testing. The Committees may also wish to authorize the Commission to receive payment from promoters for additional drug testing efforts.*

ISSUE #9: (ARBITRATION COST RECOVERY.) The Commission absorbs costs related to arbitration for contract disputes that it oversees that may impede its ability to maintain a healthy fund balance. Should participants in these proceedings reimburse the Commission for these costs?

Background: The Commission is responsible for arbitration between licensees and managers or promoters when contract disputes arise. The Commission utilizes the services of the AG to conduct arbitration proceedings and is then billed for these services at a rate that is not feasible for the Commission to pay on an ongoing basis. The Commission has exceeded its AG expenditure authority yet has a statutory requirement to assist fighters through this process. It would be helpful for the Committees to better understand what cost recovery options exist to the Commission and whether parties involved should absorb certain costs, ensuring that any payment for arbitration does not serve as a deterrent to licensees seeing arbitration.

Staff Recommendation: *The Commission should provide the Committees additional information about the instances under which it might collect reimbursement costs for arbitration, what the options may be for determining the costs paid by licensees (for example, a percentage of the disputed fees). The Committees may wish to authorize the Commission to seek cost recover for arbitration.*

PROTECTION OF ATHLETES

ISSUE #10: (USE OF PERFORMANCE ENHANCING SUBSTANCES.) The Commission, as well as other states, has worked to evaluate whether there should be potential approval for licensees to use substances which are currently banned and whether there should be exemptions for therapeutic use of certain substances. Are there instances where substances should be used without penalty to the athlete? Are statutory clarifications necessary?

Background: The Commission currently prohibits fighters from using performance enhancing substances but recently sought to adopt an exemption from the ban for legitimate therapeutic purposes, such as steroid treatments for fighters suffering from asthma. According to the Commission, the therapeutic use exemption is more complicated when reviewed from various viewpoints and that some athletes take testosterone or other performance enhancing drugs early in their career, which in turn destroys their body's ability to naturally produce a normal level of testosterone. This early abuse then creates a situation where the fighter is reliant on artificial substances, taken according to a physician's recommendation and under their orders, in order to maintain normal body levels of the hormone. The Advisory Committee on Medical Standards has examined what methods, if any, the Commission should use to grant an exemption from the ban on performance enhancing drugs for a specific therapeutic use. According to the Commission, some regulators feel that if an athlete cheated in their past, the individual should have to live with the decision while others see the conversation as one about second chances where a mistake in an athlete's past should not adversely impact their ability to make a living or participate in the sport in the present. The Advisory Committee has also reviewed natural physiological reasons for an athlete to test positive for a hormone such as hypogonadism, where no past abuse existed but a hormone is needed for a normal quality of life.

In response to these unique challenges, the Commission moved forward to initiate the rulemaking process in order to establish standards for the conditions under which an athlete may be approved to use banned substances. The Commission’s goals were to protect the health and safety of athletes, prevent discrimination against those athletes with legitimate medical conditions and promote fairness and social equity by allowing eligible legitimate contenders an equal opportunity to enter the ring. The Commission was concerned, among other factors, that athletes taking prescribed medications for legitimate reasons often discontinue taking their medication, thereby risking their health, in order to fight in California. The proposed language would allow athletes taking common, effective medication for certain conditions, under a physician’s order, to continue the use of such medication, in specific doses proven not to provide an unfair advantage, prior to and during competition. According to the Commission, the language furthers the Commission’s efforts to meet the very high standards of the World Anti-Doping Agency (WADA) by requiring that only if those standards are met could an athlete obtain a therapeutic use exemption from the Commission. The Commission determined that the WADA standard is so high that codifying that in formal Commission rule would prove to be continue the current ban on certain substances like testosterone except under the most extreme circumstances. The Commission felt that status quo, with no provision to allow consideration by the Commission on a case by case basis, according to specific conditions and under specific circumstances effectively means that an athlete with even a legitimate medical condition, the treatment for which requires a banned substance, is simply not allowed to compete. This includes, but is not limited to, athletes with asthma requiring inhalers, athletes that have suffered testicular or ovarian cancer, transgender athletes seeking licensure, and other rare cases.

The Commission’s first proposed regulatory change, modeled on WADA standards, was denied approval by the DCA. The Commission’s December 2014 proposed rule was withdrawn after the Director of DCA submitted a letter to the Commission expressing concerns that, among other things, “the opponent of any fighter with an exemption for a steroid could be at a dangerous disadvantage to someone who has been training, and is performing, with the help of that substance.” It would be helpful for the Committees to understand if there is a national effort underway to create uniform standards to address this issue. It would also be helpful for the Committees to better understand why the Commission’s efforts are being blocked.

Staff Recommendation: *The Commission should provide an update on this issue and efforts to promote athlete safety while still allowing for circumstances beyond the Commission’s control to not serve as a barrier to participation by deserving competitors. The Commission should advise the Committees of any statutory changes necessary to continue to keep California standards for banned substances on par with international agencies like WADA.*

LICENSING ISSUES

ISSUE #11: (TRANSGENDER LICENSURE.) Federal and state law prohibit discrimination on the basis of gender identity or expression. What steps is the Commission taking to license transgender combat sports participants?

Background: The Commission has spent time during the past two years discussing what changes it needs to make to ensure that athletes who identify as transgender are afforded opportunities for licensure and event participation in California. “Transgender” describes an individual whose gender identity does not match the person’s sex at birth. Transgender people are not born with physical

characteristics that distinguish them from others. They, like non-transgender individuals, choose to participate in athletic activities for fitness, recreation or employment. Federal, state and local laws prohibit discrimination on the basis of gender identity or expression, thus transgender athletes have the right to participate in licensed sports, and major sports licensing authorities (NCAA, ABC, Olympics, etc) have policies in place to govern safe and fair participation of transgender athletes.

The Commission notes that participation in combat sports confers a unique set of health risks as compared to other sports. Treatment for gender transition may involve hormone therapy and/or surgical interventions that may create specific safety concerns in combat sports, both for the transgender athlete and for their opponents. The Commission researched existing sports policies, published research and medical expert consensus as part of its discussion and in determining a path forward for transgender athletes in California to be licensed for combat sport participation. The Commission reviewed transgender policies for the National Collegiate Athletic Association (NCAA), ABC and the Olympics which all require medical documentation by an expert with knowledge and training in the area, appropriate notification of the regulatory body in advance of competition, proper documentation of any treatment and in particular hormonal therapy and monitoring of hormone levels to ensure no overt health risks to the athlete as well as no competitive advantage. The Commission also consulted the National Center on Lesbian Rights and consulted NCLR's handbook *On the Team: Equal Opportunity for Transgender Student Athletes* and reviewed clinical guidelines titled "Endocrine Treatment of Transsexual Persons" published in the *Journal of Clinical Endocrinology and Metabolism* (September 2009, 94(9): 3132-3154) by the Endocrine Society which provides time ranges needed to allow for increases in muscle mass/strength (for female to male transitions; 2-5 years) or decreases in muscle mass/strength (for male to female transitions: 1-2 years).

The Commission was increasingly concerned about a lack of specific regulation or policy regarding the participation of transgender athletes in combat sports licensed by the Commission and determined its interest in creating a level playing field for transgender licensees, with equal opportunity but also taking into consideration fairness to all competitors (transgender and not) as well as unique elements and concern for safety. According to the Commission, lack of a formal rule or policy "at best creates an environment that where transgender athlete participation is uncertain and may not be uniformly managed, and at worst creates a possibility for discrimination." Based on these efforts, the Commission undertook the comprehensive rulemaking process to amend its regulations as a means of promoting fair participation in combat sports and to prevent discrimination on the basis of gender or gender identity, while also protecting the public health and safety for all participants.

Staff Recommendation: *The Commission should update the Committees on the status of its efforts to license transgender athletes and the delay that may be caused by the aforementioned issues with the therapeutic use exemption regulation.*

BOXERS PENSION FUND AND NEUROLOGICAL EXAMINATION FUND

ISSUE #12: (PROFESSIONAL BOXERS PENSION FUND.) Created in 1982, to provide benefits to former boxers, the Professional Boxers Pension Fund (Fund) may not be appropriately designed to meet the actual health and welfare 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 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.

The Commission has improved its outreach efforts to ensure that athletes know they are eligible for benefits. However the administration of the fund (as well as costs to administer it that are paid to a third party plan administrator) as well as the potential that the monetary amounts received by a vulnerable fighter population may not serve their health and welfare needs continue to call the Fund's existence into question.

The Committees need to seriously consider whether a lump sum payment is a proper benefit to a fighter or whether there may be more appropriate uses for the Fund like providing health insurance benefits, connecting fighters to coverage for medical services or directing retired boxers to medical coverage options like Covered California so they are able to receive ongoing, consistent medical treatment that is not likely covered by a one-time payment.

Staff Recommendation: *The Committees should determine whether there are better means by which to assist retired boxers lead a healthy life after years of participation in the sport and ensure that they receive important medical care. The Committees need to assess whether the current statute governing the fund meets the intended purpose of assisting retired athletes, as well as look into whether there should be benefits of some form provided to professional MMA athletes.*

ISSUE #13: (PROPER USE OF THE NEUROLOCAL EXAMINATION FUND.) The Neurological Fund has never been used appropriately and the Commission should consider how the Fund could be best utilized to assess chronic traumatic brain injuries

Background: The Commission's mission is to encourage the health and safety of fighters it licenses but money collected from promoters to conduct, promote or assist with neurological exams of fighters is not spent in a way that provides meaningful, current and up-to-date information about those athletes brain health.

Years ago, after a boxer was denied a license under BPC § 18711, which requires that as a condition of licensure in California a boxer who wants to fight within the state must undergo a neurological

examination, he and his manager sued Commission associated defendants for “breach of statutory duty and for interference with prospective economic advantage.” The trial court entered judgments on jury verdicts in favor of plaintiffs (Superior Court of Los Angeles County, No. SWC107136, Ernest George Williams, Judge.), but the Court of Appeal reversed that decision. The court held that the decision of the Commission as to whether to issue the license was discretionary with the Commission, and it was thus immune from liability; officers and employees of the commission were likewise immune from liability and a doctor acting as an examiner for the commission, along with her agent, was immune from liability. The boxer was not a private patient, and he was examined by the doctor in her capacity as an examiner and an employee for the Commission. The purpose of the examination was to determine the fitness of the boxer to be licensed; it was not an examination or diagnosis that was made for the purpose of treatment. The court also held the latter defendants were not liable for interference with prospective economic advantage. (*Opinion by Aranda, J.,* with Vogel (C. S.), P. J., and Baron, J., concurring.*)

As part of its continued efforts to evaluate impacts of participating in fights on fighters’ brains, the Boxer’s Neurological Examination Account (Neuro Fund) was originally established in 1986 to pay for costs associated with neurological examinations. In the early 1990s, Commission staff scheduled neuro exams and directly paid the physicians who conducted them using its appropriation from the account. This practice ceased in the late 1990s, but the Commission continued to collect the assessment from promoters for this purpose and placed the funds in the account for future disbursement.

Brain injuries and trauma sustained by fighters and other professional athletes have received renewed attention nationally due to the high profile deaths of, and struggles with brain diseases by these individuals. The Commission reported in a July 2012 letter to the Legislature that neurological care for athletes has progressed substantially in the past 5-10 years and that greater medical attention is now focused on neurological function after concussive head injuries, as well as the cumulative consequences of repeated blows to the head. The Commission has previously asserted that standardized assessment scales have been validated, advanced neuroimaging technologies have been developed and computerized neurocognitive assessment tools are widely used for professional and sometimes for amateur athletes. The Commission recently began informing licensees of opportunities for them to become part of a unique program at The Lou Ruvo Center for Brain Health, in conjunction with the Cleveland Clinic, which offers free physicals, including brain scans, for boxers and MMA athletes who compete in Nevada, increasing the educational data of the Nevada Commission as well as medical professionals.

The administrative challenges the Commission has historically had to collect money from promoters and then spend that money to ensure fighters brain health and assess potential brain damage and injuries has taken away from the important conversation about why the fund exists in the first place. The highest deduction from the neurological fund in the past number of years has been to pay DCA pro rata to administer the fund. The Committees need to evaluate the best options for future diagnostics of brain injuries and promoting brain health and safety for athletes participating in combat sports.

Staff Recommendation: *The Commission may wish to consider requiring promoters to pay directly for neurological exams of fighters who participate in their events, allowing the Commission to focus its spending of the Neuro Fund on proactive measures to protect fighters and prevent traumatic brain injury when possible.*

**CONTINUED REGULATION OF FIGHTERS AND EVENTS BY THE
CURRENT COMMISSION**

ISSUE #14. (SHOULD THE COMMISSION BE CONTINUED?) Should the licensing and regulation of boxers, kickboxers and mixed martial arts athletes be continued and be regulated by the current Commission membership?

Background: California's professional and amateur boxers, kickboxers and mixed martial arts athletes are better served with appropriate oversight by a Commission, and the state benefits from holding these events in California. If the Commission goes away, large scale events held in communities throughout the state will not happen, taking with them the economic windfall to local businesses. Most significantly, fighting will still take place, in an underground, unregulated environment that is not conducive to protecting athletes and promoting career opportunities and abilities of many young people.

The most important work of the Commission happens on the ground level, managing and overseeing events and promoting the well-being of the competitors participating in combat sporting events in California. While the Commission has struggled with basic operational and administrative functions over the years, the current membership and management have shown a commitment to improve the Commission's overall efficiency and effectiveness and are working cooperatively with the Legislature and the Committees to bring about necessary changes.

Staff Recommendation: *Staff recommends that the Commission's operations and the State Athletic Commission Act (or Boxing Act) be extended for four years and be reviewed at that time by the respective Committees of the Senate and Assembly. Recommend that boxers, kickboxers and mixed martial arts athletes continue to be regulated by the current Commission members in order to protect the interests of athletes and the public and be reviewed once again in four years.*