

BACKGROUND PAPER FOR THE CALIFORNIA STATE ATHLETIC COMMISSION

Joint Oversight Hearing, February 26, 2019

**Assembly Committee on Business and Professions; Senate Committee on
Business, Professions and Economic Development; and Assembly
Committee on Arts, Entertainment, Sports, Tourism, and Internet Media.**

BRIEF OVERVIEW OF THE COMMISSION

The California State Athletic Commission is a licensing agency within the Department of Consumer Affairs (DCA). The Commission was established via the initiative process in 1924.¹ To remedy defects discovered in the initiative act, the voters authorized the Legislature to amend it.² Over time the Legislature amended and consolidated most of the provisions of the initiative and related statutes into the current practice act,³ which is cited as either the Boxing Act or the State Athletic Commission Act.⁴ The Commission is also subject to the federal Professional Boxing Safety Act of 1996 and subsequent Muhammad Ali Boxing Reform Act.⁵

The Commission's primary function is to protect the public by licensing and regulating combat sporting events. As a result it has sole jurisdiction over all competitions featuring martial arts like boxing, wrestling, and other forms of unarmed fighting. While combat sports may not pose a risk to the public in the way other licensed professions may, regulation helps minimize the inherent risk of harm to its participants, particularly those who may be untrained or would be mismatched.

To that end, the Commission licenses or approves anyone that is involved in an event. This includes the fighters, their trainers, their managers, their seconds (corner), the promoters, matchmakers, officials, and the ringside physicians. It also establishes the requirements for each license, approves the format of the competition, staffs the events, investigates complaints, and enforces applicable laws by issuing fines and suspending or revoking licenses.

¹ Stats. 1925, p. lxxxix, §§ 1-16, submitted by initiative as Proposition 7 and approved by voters in the November 4, 1924, General Election.

² Assembly Constitutional Amendment 26, Chapter 60, Statutes of 1931; Prop 32 1932

³ Assembly Bill 599 (Jones), Chapter 45, Statutes of 1941.

⁴ Business and Professions Code (BPC) §§ 18600-18887.

⁵ 15 U.S. Code §§ 6301-6313.

Among the Commission’s other duties, it also enforces contracts, ensures timely payments, and deters illegal gambling and other prohibited activities associated with combat sports and prizefighting.⁶ It also oversees the Boxers’ Pension Fund⁷ and the Neurological Examination Account.⁸

The Commission’s mission statement, as stated in its 2019-2023 Strategic Plan, is:

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

In 2018, the Commission supervised 118 boxing events and 120 mixed martial arts (MMA) events. The Commission regulated more sanctioned boxing events than Texas (54 events), New York (28 events), New Jersey (11), and Nevada (21 events) combined. The Commission also supervised more sanctioned MMA events than any other, the closest second being Texas (69).⁹

Commissioners

The Commission consists of seven public members, which means they are not licensed by the Commission. The Boxing Act specifically prohibits a person who is licensed or has been licensed within the last two years from serving on the Commission. The Governor appoints five of the commissioners, while the Senate Committee on Rules and the Speaker of the Assembly appoint one each.

The Boxing Act also requires that each appointing authority try to ensure that at least four of the commissioners are either: a licensed physician with expertise in neurology, neurosurgery, head trauma, or sports medicine; or experienced or an expert in financial management, public safety, or in the activities regulated by the Commission, including as a contestant, a referee or official, a promoter, or a venue operator.

Currently, there are no vacancies. Commissioners receive no salary but are provided a \$100-a-day per diem and reimbursed for travel related to the duties of the Commission. The following is a listing of the current Commissioners and their background:

Commission Members	Appointment Date	Term Expiration Date	Appointing Authority
<p>John Carvelli, Chair Mr. Carvelli was first appointed in 2013 and is a Director and Executive Vice President of LIBERTY Dental Plan Corporation, a national dental managed care organization, since 2004. He has a great deal of experience in healthcare finance and regulatory matters. He has served as a board member of "Team 100 Food for Kids" Board since 2011 and currently serves on the "Parents Television Council" Advisory Board since 1995.</p>	02/16/18	01/01/22	Governor

⁶ CCR, Title 16, §§ 389-399.

⁷ BPC §§ 18880-18887.

⁸ BPC § 18711.

⁹ Association of Boxing Commissions 2018 Commission Activity Report.

John is an avid sports fan. He played college football and has coached girls soccer for over 10 years.			
Mary Lehman, Vice-chair Ms. Lehman has served since 2013 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.	02/16/18	01/01/22	Governor
Vernon Williams, Physician Dr. Williams has served since 2015. He completed his neurology residency at The University of Maryland in Baltimore, MD and is board certified by the American Association of Psychiatry and Neurology. After residency he completed a multidisciplinary, interventional pain fellowship in the Department of Anesthesiology and Critical Care (Division of Pain Medicine) at Johns Hopkins Hospital in Baltimore, MD. Dr. Williams joined the Kerlan-Jobe Orthopedic Clinic in Los Angeles in 1997. At Kerlan-Jobe, he is a consulting Team Physician for the Los Angeles Lakers, Dodgers, Kings, Sparks, KISS, Anaheim Ducks, and several southern California collegiate, high school, and elite club athletic programs. He is the Founding Director of The Center for Sports Neurology and Pain Medicine at the Kerlan-Jobe. He is also the Founding Director of the Sports Neurology Fellowship at Kerlan-Jobe and serves as Chief Medical Officer of the Sports Concussion Institute. Dr. Williams is an active educator on issues related to Sports Neurology and Concussion. He is the Chair of the American Academy of Neurology Sports Neurology Section. He often serves as an expert consultant on Pain and Sports Neurologic Disorders to major television networks, radio, satellite, and print media.	01/02/19	01/01/23	Governor
Martha Shen-Urquidez Ms. Shen-Urquidez has served since 2013. She 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. Shen-Urquidez 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-Urquidez earned a Juris Doctorate degree from Whittier Law School.	02/09/17	01/01/21	Governor
Van Gordon Sauter, Commissioner: Mr. Sauter has served since 2013. He is a retired journalist and executive who served as president of CBS Sports and CBS News and as executive vice president of CBS Broadcasting. He was a television anchorman in Chicago, Paris bureau chief of CBS News and a reporter for newspapers in Chicago and Detroit. He has written three books and is currently working on a photo text book about The Sunset Strip. He lives in Los Angeles and Ketchum, Idaho. He is an avid fly fisherman.	02/16/18	01/01/22	Governor
Luis Ayala, Commissioner Mr. Ayala has served since 2015. He is President of AMG Consulting, which provides professional services in external affairs and public affairs, community outreach, project management and policy analysis for private and public sector clients. Mr. Ayala has 17 years of experience in Public Policy at the Federal, State and Local Governments and currently serves as Mayor of Alhambra, CA. Mr. Ayala played College Football and has coached soccer for 6 seasons in the American Youth Soccer Organization.	04/15/15	01/01/2019	Senate

<p>James Araby Mr. Araby has served since 2019. He is Strategic Campaign Director for UFCW Local 5. After graduating from college in 2001, Mr Araby began his work in the labor movement, starting as an organizer at SEIU and moving on to the California Federation of Teachers, as Political Field Director he worked on two statewide ballot initiatives in 2010 and 2012. For the past five years, Mr. Araby has worked for the UFCW as Executive Director of the Western States Council. In addition to the work for the UFCW, Mr. Araby serves on the board of directors of CORO Northern California, Consumer Federation of California, advisory board for the technology company Organizer and is an appointee on the Contra Costa Workforce Investment Board.</p>	1/10/19	1/1/23	Assembly
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Meetings

The Commission is statutorily required to meet at least two times each calendar year, once in northern California and once in southern California.¹⁰ However, the Commission aims to meets at least five 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.
- Oversee its delegated entities (see the Licensing section below).
- 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.

In addition to its regular meetings, it also meets to conduct trainings for ringside physicians, inspectors, and officials.

Because the Commission is a multi-member body established in statute, it is subject to the Bagley-Keene Act Open Meeting Act.¹¹ As a result, it is required to publicly notice all Commission meetings where it will address issues within its jurisdiction and provide an opportunity for public comment.

A quorum is not required for every meeting, but the Commission requires a quorum in order to take action. A majority of the appointed members of the Commission constitute a quorum. The Commission has not had any meetings that had to be canceled due to a lack of a quorum in the last four years.

The Commission’s policy is to webcasts all Commission meetings. However, since there are various factors that could affect the Internet or end-user connections to this service, the availability and quality of this service is not guaranteed. If available, webcasts remain on DCA's web site for several years under the web case archives.

¹⁰ BPC § 101.7.
¹¹ Government Code §§ 11120-11132.

Committees

The Commission has one committee established by statute, the Advisory Committee on Medical and Safety Standards.¹² As a result the committee is also subject to the open meeting requirements. All other committees of the Commission are formed as needed and are not subject to open meeting requirements. The Commission does not webcast its committee meetings.

The Commission's committees are as follows:

- *Advisory Committee on Medical and Safety Standards.* This Committee consists of five licensed physicians and surgeons appointed by the Commission. The purpose is to recommend medical and safety standards for the conduct of boxing and mixed martial arts contests. The current members are: Dr. Paul Wallace, (Chair), Dr. Rudolph-Bear Gamboa, Dr. Brian Estwick, Dr. Rhonda Rand, Dr. Jonathan Schleimer, and Dr. Diego Allende.
- *Ringside Officials Subcommittee.* Formed by the Chair to Evaluate and recommend any changes to the training, evaluation, and pay of all officials. Priority is to ensure proper training and education so that the officials in California are aware of and skilled in the rules and regulations within the State. The current members are commissioners Carvelli and Shen-Urquidez.
- *Boxers Pension Plan Subcommittee.* Formed by the Chair to work with the Executive Officer to make needed changes to regulatory language and to review the Investments and pension accounting to ensure proper processes are followed and contract scope is adhered to. The current members are commissioner Ayala and Vice Chair Lehman.
- *Large Event Incentive Subcommittee.* Formed by the Chair in response to losing fight events to other states aggressively soliciting away from CA citing non-resident tax requirements and offering other incentives. An effort is well underway to outreach and advocate the benefits of holding events in CA including but not limited to having the best judges and officials backed by a well organized and professional CSAC. Current members are Chair Carvelli and Commissioner Shen-Urquidez.
- *Gender Equity Subcommittee.* Formed by the Chair to research and address issues related to gender equity including but not limited to sexual harassment in gyms and/or competitions, length of rounds in female boxing compared to female mixed martial arts, income/pay disparity, weight cutting for females, education for trainers to understand gender specific issues, and improper barriers to those of different genders for fight, coaching, and/or management opportunities. Current members are Vice Chair Lehman and Commissioner Shen-Urquidez.

Associations

The Commission is associated with two national combat sport oversight organizations, the Association of Boxing Commissions and Combative Sports (ABC) and the Association of Ringside Physicians (ARP). The ABC is a federation of U.S. state and territorial combat sport regulatory commissions. Its goal is to promote: the improvement of combat sports, standard reporting of event data, uniformity of

¹² BPC § 18645.

regulation, training of event officials and ringside physicians, operate a charitable fund for indigent boxers, and encourage enforcement of applicable federal laws. The Commission is a voting member and its executive officer is the Chair of several ABC committees. As a result, the Commission is very active with the ABC and has worked closely in the development of rules, protocols, and other aspects of boxing regulation.

The ARP is an association of physicians, state commission members and staff, attorneys, allied healthcare professionals, notable individuals in sport, and students. Its goal is to provide up-to-date education, training, and certification for ringside physicians worldwide. While the Commissioners and staff are not members, many of the Commission's approved ringside physicians are and the executive officer regularly attends the meetings.

Fiscal

The Commission is a special fund entity and receives no support from the state General Fund.¹³ Instead, it relies on revenues from licensing, administrative, and other regulatory fees to pay for its costs. The Commission's revenue and resources are deposited into and drawn from the Athletic Commission Fund. In the last four fiscal years (FYs), the Athletic Commission Fund had an average approximate balance of \$841,000.

Revenue

In the last four fiscal years (FYs), 2014/15 to 2017/18, the Commission's average approximate revenue was \$1.7 million. For FY 2017/18 its total revenue was approximately \$1.6 million and for FY 2018/19 it anticipates around \$2.1 million.

Like other DCA licensing entities, the Commission's most stable revenues are from licensing and administrative fees. However, due to the nature of the Commission's licenses and the limited number of licensees, the revenues from licensing fees are not enough to support the Commission's programs, particularly enforcement. In the last four FYs, the approximate license and fee revenues averaged \$280,400, about 16% of the total revenues.

Instead, the Commission relies on revenues from statutorily established fees on the holders (promoters) of approved combat sporting events held in California. There are two types of event fees in statute, a "gate" fee and a "broadcasting or television" fee. The gate fee is 5% of an event's gross ticket sales. The gate fee is capped at \$100,000. The "broadcasting or television" fee is 5% of the gross price for the sale, lease, or other capitalization of broadcasting or television rights. The broadcasting or television fee is capped at \$35,000.

In the last four FYs, the "gate" and "broadcasting or television" fees made up approximately 86% of the Commission's revenues.¹⁴ While the revenues from these fees are substantial, they are also highly

¹³ For more information related to state funds, see Department of Finance, *Glossary of Budget Terms*, http://www.dof.ca.gov/budget/resources_for_departments/budget_analyst_guide/glossary.pdf.

¹⁴ CSAC 2018 Sunset Review Report, pgs. 11-12.

volatile because they are based on the number and size of the events held in California in a given fiscal year. The number of events varies based on a number of market factors like the viability of match-ups, venue availability, and consumer interest.

Expenditures

The Commission's access to its funds is limited to its authorized budget for the FY. Changes to its budget are subject to DCA and Department of Finance approval and legislative appropriation. In the last four FYs, the Commission's expenditures totaled an average of \$1.6 million. The Commission's total expenditures for FY 2017/18 were approximately \$1.9 million, and for FY 2018/2019 it anticipates approximately \$1.87 million.

Since its last review, the Commission expended, on average, approximately 53% on enforcement, 22% on licensing, 11% on administration, and 14% on DCA pro rata. DCA pro rata is the amount each program must reimburse for the costs associated with administrative services provided, such as centralized training, cashiering, legal, and reprographics.

The Commission also contributed approximately \$44,387 between fiscal years 2009-10 and 2016-17 to the DCA's BreEZe project, which was intended to upgrade the legacy licensing tracking system. However, the roll-out of the program was canceled before the Commission received the update. The Commission is a part of a new plan to upgrade its system and those costs are included in the DCA pro rata expenditures.

The Commission is authorized to seek cost recovery orders for enforcement and disciplinary actions,¹⁵ including for arbitration.¹⁶ The Commission is also authorized to submit unrecovered fines and costs to the Franchise Tax Board for collection. However, the Commission has only used this authority to collect money owed from dishonored checks.

Fund Balance

In October 2018, the Commission reported an approximate fund balance of \$1.1 million, which represents about eight months of reserve. Because the Commission's revenues have exceeded its expenditures in recent years, it has a healthy reserve. While the Commission has no mandated reserve level, the DCA Budget Office has historically recommended a contingency reserve fund of at least six months. This ensures that special fund entities have the fiscal resources to absorb unforeseen costs, such as drawn out enforcement actions, salary increases, or litigation.

Since FY 2014/15, the Commission's reserve has fluctuated between six to eight months. The Commission is in good fiscal health and continues to regulate an increasing number of events. However, it still faces uncertainty from market factors as noted above.

¹⁵ BPC § 125.3.

¹⁶ BPC § 18855.

Other Funds

The Commission also administers the Neurological Examination Account and the Boxers' Pension Fund. The Neurological Examination Account is funded through fees assessed on ticket sales and is intended to finance efforts to reduce the risk of injury from head trauma. In the last four FYs, the Neurological Examination Account had an average approximate balance of \$524,000. While it currently has a structural imbalance, the remedy for the imbalance is currently going through the DCA's regulation process.

The Boxers' Pension Fund is established in statute and is funded through assessments on tickets and gate fees.¹⁷ There are 287 covered boxers for a total of \$3,779,840 in plan assets. Of the covered boxers, 11 were paid \$176,332 in benefits in 2018. The plan is administered by Benefit Resources, Inc., while its investment assets are managed by Raymond James.

Staff

The Commission's direction and operations are managed by its Executive Officer (EO), who serves as the chief executive and administrator. The current executive officer, Andy Foster, has served as EO since 2012. Previously, Mr. Foster served as Executive Director of the Georgia Athletic and Entertainment Commission and as Regional Director of the Southeastern United States for the Association of Boxing Commissions. He is also a former professional fighter and instructor.

In addition to its EO, the Commission has 8 authorized staff positions and approximately 70 temporary help positions for FY 2018/19. There is 1 vacant authorized position. The authorized staff assist the Commissioners and EO in the overall operation of the Commission. The temporary help positions are composed of the Commission's Athletic Inspectors, who attend the events and perform the testing and oversight.

Historically, the Commission has also had a Chief Athletic Inspector (CAI) and an Assistant CAI. The CAI was a full-time position that required in-depth knowledge of the industry and martial arts. The CAI was responsible for overseeing the Athletic Inspectors and approving matches.

However, since FY 2012/13, the Commission has had to continually modify its operations and reduce its staff to maintain solvency and rebuild its fund balance and reserve. In FY 2011/12, it had 12 authorized positions in addition to its EO and temporary help positions. Two of the authorized positions were the Chief Athletic Inspector (CAI) and the Assistant CAI. Since the current EO was experienced enough to assume the duties of the CAI, the Commission planned to leave the positions vacant until it had sufficient resources to fill them. However, the State Personnel Board ultimately abolished the classifications.

¹⁷ BPC §18824(a)(2)(B); CCR, tit. 4, § 403.

The Commission has been slowly restoring its staffing levels to ensure that its operational needs are met. Because it now has the resources to fill the positions, it is seeking to reinstate the CAI and Assistant CAI classifications.

Licensing

Currently, it is unlawful to participate in or conduct a full-contact martial arts contest without a license. “Martial arts contest” is defined as any sporting event that features competitive boxing, kickboxing, grappling, MMA, or any other form of unarmed combat between two or more individuals. Full-contact means the amount of force used may result in physical harm to the participants.

The Commission licenses most individuals that are directly involved in an event. The purpose of its licensing program is to protect the public by providing a safe and regulated avenue for combat sports. It does so by limiting participation in full-contact martial arts contests and events to individuals who are sufficiently trained, follow the rules, and would not otherwise subject themselves or their opponents to unnecessary harm.

The Commission also licenses those who hold or work as officials at an event comply with applicable laws, contractual agreements, and other obligations. The Commission also approves ringside physicians, fighter match-ups, equipment, and contracts. The requirements are intended to ensure the physical and financial well-being of the participants. They also aim to reduce unethical behavior such as bribery and fraud.

The Commission’s regulation of martial arts contests differs between the professional and amateur levels. Professional bouts are directly licensed by the Commission. Amateur bouts are regulated by sanctioning bodies that the Commission approves and oversees.

Professional Licenses

On average, the Commission issues approximately 3,200 licenses per year. The Commission’s fighter and seconds licenses are valid for one year and are not renewable. Instead, they are issued a new license when the prior license expires. Officials, Managers, Matchmakers, Professional Trainers and Promoters must maintain and renew their license every year.

The Commission utilizes national registries such as those published by the ABC, Fight Fax, BoxRec.com, and MixedMartialArts.com for athlete suspensions prior to issuing a license. The Commission also requires Promoter, Manager, and Matchmaker applicants to submit fingerprints to verify criminal history information. The Commission has denied two licenses for failure to disclose criminal history. One was for violation of vehicle code 10851(a) – taking a vehicle without consent or vehicle theft – felony charge. The second license denial was for violation of penal code 12020(a) – possession, manufacturing, or selling dangerous weapon – felony charge that was reduced to misdemeanor.

The Commission meets its internal processing timelines and has no backlog. It processes most athlete and seconds license applications within 2 days. While promoter, manager, and matchmaker applications take longer due to the amount of information processed and the fingerprint requirement, the Commission still processes, on average, all complete applications within 14 days and incomplete applications within 30 days.

The following is a list of the licenses the Commission issues to fighters and those that are involved in the management of fighters during and prior to events:

- Professional Fighter*: a person who engages in a martial arts contest, is trained, and usually receives payment. To obtain a license, professional fighters are evaluated based on their skills and experience to ensure they are qualified to participate against professional opponents. They must also meet physical and mental fitness requirements for competition. Further, they are also required to take the newly implemented C3 Logix test. C3 Logix System is a mobile application that is used on a tablet and tracks cognitive performance over time. (*\$60 licensing fee*).

Professional Fighter Population			
FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
1105	1193	1194	1141

- Promoter*: a corporation, partnership, association, individual or other organization which conducts, holds, or gives a boxing or martial arts contest, match or exhibition. To obtain a license, a promoter must demonstrate financial stability and provide the Commission with a surety bond of at least \$50,000. Applicants are required to submit to fingerprinting for prior criminal history criminal record clearance from the California Department of Justice (DOJ) and Federal Bureau of Investigation (FBI). (*\$1000 licensing fee for professional promoters and \$250 licensing fee for amateur promoters*).

Promoter Population			
FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
50	48	44	41

- Manager*: a person who is paid to represent a fighter, directs or controls a fighter’s fight schedule and activities, is an officer, director, shareholder, or organization that receives more than 10 percent of a fighter’s purse (winnings). A manager must provide a list of everyone involved in the management of the fighter. A first-time applicant must pass a written exam on the fundamentals of sports regulated by the Commission, management of fighters, and relevant laws. (*\$150 licensing fee*).

Manager Population			
FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
98	125	140	103

- *Second*: also referred to as a “corner,” a person who aides and assists a fighter between rounds. An applicant must pass a written exam on the fundamentals of combat sports and relevant laws. Applicants for licensure as a second must also demonstrate the duties of second before a Commission representative. (*\$50 licensing fee*).

Second Population			
FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
2007	2056	2037	1930

- *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. (*\$200 licensing fee*). For FYs 2014/15 and 2015/16, the license was being implemented.

Professional Trainer Population			
FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
N/A	N/A	1194	1141

The following is a list of the licensees that are responsible for the enforcement of bout rules and other requirements meant to protect the combatants. Because fight officials are the safety net for fighters during competition, the Commission has the sole authority to approve officials:

- *Referee*: 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. Referees and judges are evaluated on skill, experience, training, and historical accuracy. (*\$150 licensing fee*).

Referee Population			
FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
40	46	35	54

- *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*).

Judge Population			
FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
49	44	58	90

- *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*).

Timekeeper Population			
FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
13	14	10	20

- *Matchmaker*: 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*).

Matchmaker Population			
FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
9	24	9	22

Amateur Licenses

The Commission delegates its authority to oversee amateur sports to qualified nonprofit organizations that the Commission has determined meet or exceed the safety and fairness standards of the Commission. Amateur fighters typically receive no payment. The authority of the organizations is limited to the specific delegated sports. The Commission is statutorily required to conduct an annual review of the delegated organizations. It also receives regular updates in writing at its meetings and sends inspectors to events.

The Commission delegates its oversight responsibilities over amateur boxing, MMA, youth pankration, and kickboxing to four different nonprofit sanctioning organizations:

- 1) *USA Boxing, Inc.* The Commission delegates its authority for regulation of amateur boxing to USA Boxing, Inc., a branch of the U.S. Olympic Committee.
- 2) *The California Amateur Mixed Martial Arts Organization (CAMO)*. The Commission delegates its regulatory authority for amateur MMA to CAMO. CAMO was founded in 2009 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.

- 3) *The United States Fight League (USFL)*. The Commission delegates its authority for youth pankration event oversight to USFL. The USFL is a sanctioning body that regulates youth pankration events. Modern pankration is a form of full-contact martial arts contests that involve limited striking (head strikes are not allowed) and grappling. Matches are decided by points or submission technique. The USFL primarily markets its events and certifications to youths.
- 4) *The International Kickboxing Federation (IKF)*. The Commission delegates its authority to regulate amateur kickboxing and amateur Muay Thai to the IKF. The IKF is an international sanctioning body with a branch in California.

The organizations are responsible for reporting to the Commission all major injuries, medical and administrative suspensions, schedules of event and licensing fees, revenue and expense reports, and current year to date profit and loss statements. The Commission takes swift action and works closely with the delegated entities when possible violations of safety standards at amateur events occur, such as a lack of an ambulance or the absence of other key athlete protections.

Enforcement

The Commission's enforcement activity differs in comparison to other programs within the DCA. The bulk of the Commission's enforcement activity involves sending trained athletic inspectors out into the field to staff events and perform site-visits. The athletic inspectors monitor events to ensure compliance with the law, including checking the equipment, taking samples from fighters for testing of prohibited substances, and monitoring weigh-ins.

The Commission also investigates complaints, ensures payment of fighters, tests fighter samples for prohibited substances, and reviews fight footage for fouls and injuries, among other things. For competition testing, the Commission contracts with UCLA Olympic Analytical Laboratory and utilizes the WADA banned substance list to ensure the highest level of integrity for regulated combat sports.

For out-of-competition prohibited substance testing, the Commission also vendors with a company called Request A Test. The vendor coordinates all scheduling, facilities, and equipment necessary to perform out-of-competition testing for all licensed athletes, even those that reside in other countries. As a result, the Commission has sharply increased the number of random drug tests it is able to perform.

The Commission also has the ability to issue cease and desist orders for unauthorized events and other unlicensed activity. Its primary sources of information are complaints from stakeholders, which can be submitted via a link on the Commission's website, and watching for mention of illegal activity on social media, popular boxing and MMA websites, and blogs.

When the Commission finds a violation, it has the disciplinary authority to issue immediate suspensions and fines. Due to the inherent risk of harm in combat sports, the Commission is not subject to the Administrative Procedures Act. It can temporarily suspend a license and assess fines without a hearing. For unlicensed activity, the Commission coordinates with DCA's Division of Investigation (DOI) or local law enforcement.

Fine amounts vary from \$100.00 to \$2,500.00 and are rarely reduced. Fines are used as a penalty and are usually accompanied by a suspension or order to correct conduct. They are commonly issued against licensed athletes for using prohibited substances and unsporting behavior that reflects poorly on the sport. According to the Commission, the top cited and fine violations are:

- 1) Failure to make weight.
- 2) Administration or use of prohibited substances or methods.
- 3) Discredit to boxing (unsporting behavior).
- 4) Failure to report or pay event fees or taxes.
- 5) Contract violations (Management, Promotional, or Bout)

Effective January 1, 2016, the Commission is authorized to assess additional fines of up to 40 percent of an athlete's total purse for violations related to the use of prohibited substances. The authority is intended to provide a greater level of deterrence among the higher paid athletes. So far, the Commission has used this additional one time, amounting to \$205,000.

In the event of an appeal, the Commission partners with the Office of the Attorney General (OAG). 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.

Disciplinary actions (suspension, denial of license, revocation) have not increased or decreased dramatically, remaining consistent with market deviations. When demand for combat sports is high, more enforcement is needed. Currently there is no backlog in pending cases and the Commission closes enforcement cases within 30 days.

PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS

The Commission was last reviewed 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. During the previous sunset review, committee staff raised 11 issues. The following are some of the changes, enhancements and other important policy decisions or regulatory changes made pursuant to the review. For those which were not addressed and which may still be of concern, they are addressed and more fully discussed under "Current Sunset Review Issues."

- **Events Held on Tribal Land (Issue #2).** The Commission has no authority to regulate fights on Tribal Land. The Commission regulates these events by invitation and pursuant to a contract with a tribe. Thus far in calendar year 2018, the Commission regulated 157 events, of which 25 were on tribal lands. The Commission is aware of bouts that have likely taken place on tribal lands without Commission oversight. While the Commission regrets this activity, we have no authority to stop it. The Commission has and will continue to extend invitation to all tribal and other organizations and offer our assistance to help them conduct safe and appropriate events.

- **Licensees serving as Commissioners (Issue #3).** During the last sunset review, the Commission was asked whether it needed professional members for their input. In response, the Commission noted that “While current licensees cannot serve on the Commission, a current Commissioner is a former professional boxer, another Commissioner is highly trained in kickboxing and martial arts, and the Executive Officer is a former Professional mixed martial artist, referee, and trainer therefore some degree of experienced input is present. Additionally, the Chair schedules stakeholder meetings where input from the licensed communities is heard and considered.”
- **Medical Advisory Committee Quorum (Issue #4).** Due to a lack of regular Medical Advisory Committee meetings, the Commission was asked whether changes to the Boxing Act were necessary. The Commission responded that “On March 14, 2017, the Commission met to appoint six members to the Advisory Committee on Medical and Safety Standards (Medical Advisory Committee). The Medical Advisory Committee meets at least twice per year to discuss key safety issues and recommendations agreed upon to submit to the Commission as a whole. There has been a quorum at all meetings held since 2017.”
- **Drug Testing Costs (Issue #8).** Because drug testing the Commission performs is expensive, the Commission received authority to assess additional fines of up to 40 percent of an athlete’s total purse for violations related to the use of prohibited substances. Having this authority has provided a greater level of deterrence among the higher paid athletes.
- **Arbitration Cost Recovery (Issue #9).** The Commission absorbs costs related to arbitration for contract disputes that it oversees, as a result, effective January 1, 2016 the Commission received authority to seek cost recovery related to arbitration proceedings from the parties subject to the proceedings.

Major changes:

- Conducted two industry summits to study the effects of dehydration and rapid rehydration on the short- and long-term health of combat athletes.
- Established a Gender Equity Subcommittee to research and address issues related to gender equity, including, sexual harassment in gyms and competitions, length of rounds in female boxing compared to female mixed martial arts, income and pay disparity, weight cutting for females, education for trainers to understand gender specific issues, and improper barriers to those of different genders for fight, coaching, and management opportunities.
- Received additional staff and budget augmentations for general operations, its Neurological Program, and drug testing.
- Adopted a 2019-2023 Strategic Plan.

CURRENT SUNSET REVIEW ISSUES FOR THE COMMISSION

The following are areas of concern for the Commission to consider, or areas of concern for the Committees to consider, along with background information regarding each particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which need to be addressed. The Commission has been provided with this background paper and has been asked to respond to both the issues identified and the recommendations of the Committee staff.

ADMINISTRATIVE ISSUES

ISSUE #1: Volatile Revenues. What steps, if any, are available to ensure the Commission has consistent and predictable revenue streams?

Background: This is a continuation of Issue #7 (Fluidity in Revenues and Expenditures) from the Commission's prior sunset review. As noted under the Fiscal section above, the Commission's most stable sources of revenue come from its license fees. However, the license fees cover less than 20% of the Commission's total expenditures. More than 80% of the Commission's revenues come from its gate and broadcast fees.

As a result, the Commission's solvency is dependent on the number of fights held in California, which is difficult to predict. For example, for FY 2017/18, approximately 73% of the Commission's combat sport event revenue came from six promoters. If one of those promoters did not hold events in California, the Commission would have lost a significant amount of revenue. As a result, the Commission has a financial interest in attracting and approving events in California.

In addition, there are a number of other factors that make its budgeting difficult. Basic inflation will continue to increase expenditures naturally. For example, since the last Sunset Review, the Civil Service Union Contract has authorized several cost of living increases. Implementing new programs, such as research partnerships or increasing outreach to prevent unlicensed activity will also increase workload over time.

Further, the DCA charges a pro rata fee for the centralized services it provides. Pro rata is calculated differently depending on the type of service being provided, and the estimates and adjustments for pro rata change frequently, making the amount difficult to predict. In FY 2014/15, DCA pro rata was \$162,000. In FY 2017/18, the projected estimate for DCA pro rata was \$276,000.

Even in good revenue years, the budget approval process requires that estimates be made many months in advance. As a result, the Commission's actual budget is always a year behind the current revenues. Compounding that issue, California's financial management and tracking system, Fi\$Cal, is not functioning properly and does not produce consistent reports.

In light of these factors, the Commission is hoping to take steps to normalize its revenue. When there is a structural imbalance in a DCA entity's budget, it would ordinarily seek a license fee increase. However,

the Commission's primary source of revenue is not license fees. Further, the number of Commission licensees is too small, therefore license fee increases would not have a significant impact.

Another option is to find other sources of funding. When the Commission was first formed in 1924, it was supported by the General Fund. General Fund entities receive support funds when their expenditures exceed their revenues. In FYs 1992-93 and 1993-94, the Commission was moved to special fund status. However, the licensing and fee revenues generated by the Commission were not able to sustain its budget, and the Commission was moved back to the General Fund. After FY 2004-05, when its budget stabilized again, it was moved back to the Athletic Commission Fund.

Rather than request general fund support, the Commission is exploring an increase in the statutory caps for the 5% fee on box office gate fees (from \$100,000 to \$150,000) and broadcast fees (from \$35,000 to \$45,000). Because it is an increase in the statutory maximum, any increase would require a change in the Commission's regulations. It would also only impact the promoters that held events grossing over \$2,000,000 at the gate and \$700,000 in broadcast or television rights.

In terms of impact to the Commission's budget, an increase in the statutory caps would add to the Commission's overall revenue, increasing its reserves overall to potentially offset any low revenue years. The increase could also potentially help offset inflation and cost of living increases.

For example, if just the broadcast fee were to increase from \$35,000 to \$45,000, in FY 2016-17, the Commission's revenue would have increased by approximately \$40,000. In comparison, from FYs 2016/17 to 2017/18, the Commission's pro rata expenditures increased by \$54,000 while civil service personnel costs increased by \$32,000.

One consideration, however, is that an increase in fees may have a negative impact in the attractiveness of California as a venue for holding events. While California is the leader in the number of boxing and MMA events held and regulated According to ABC data, it may be helpful to compare California's current fees to other states. Currently, other comparable states assess the following fees for professional bouts (not including complimentary tickets):

- Nevada charges an 8% gate fee per ticket, a \$1 fee per ticket for events grossing over \$500,000 (\$0.50 for the others), and a 4% broadcast fee.¹⁸ There is no maximum.
- New York charges 3% of the total receipts of ticket sales, up to \$50,000, for boxing, sparring, and wrestling events. For those events, the broadcast fee is the same. For kickboxing, single discipline martial arts, or MMA events, New York charges at 8.5%, with no maximum amount of tax due per event and broadcast fees are 3%, up to \$50,000.¹⁹

¹⁸ Nev. Rev. Stats. §§ 467.104; 467.107; 467.108.

¹⁹ https://www.tax.ny.gov/bus/acst/auth_combat_sports_tax.htm.

- Texas charges a 3% fee on the face value of all tickets plus 3% of gross receipts received from sales of broadcast rights or \$30,000, whichever is less.²⁰

At the same time, California also taxes fighters' winnings as state income. Other states, such as Nevada, do not. If the additional costs to the promoters are distributed throughout their organizations and partners, it may also result in less overall income for the fighters and complicate the arrangement of fights. It could also impact contractual arrangements with venues. If the additional fees end up significantly deterring business, it could potentially cancel out the benefits of the higher fees. In the end, however, the Commission would benefit from consistent and predictable revenues to ensure it does not risk insolvency again.

Staff Recommendation: *The Commission should continue to work with the Committees and stakeholders to determine whether the types of increases and the amounts suggested are feasible solutions to the volatility of the Commission's revenues given the potential impact on the market. The Commission should also update the Committees on any alternative solutions it may have considered or will consider.*

ISSUE #2: Chief Athletic Inspector. Should the Commission's Chief Athletic Inspector and Assistant CAI positions be reauthorized in statute?

Background: This is a continuation of Issue #6 (Lack of Staffing) from the Commission's last review. As noted under the Staff section above, the Commission's Chief Athletic Inspector (CAI) and Assistant CAI staff classifications have been abolished. The CAI was similar to the Chief of Enforcement at other boards. Historically, the CAI was responsible for enforcing the laws, rules, and regulations relating to combat sports. However, this also required specialized knowledge and skills specific to the regulation of martial arts.

Among other things, the CAI was responsible for: supervising and training the Commission's Athletic Inspectors; evaluating and training licensed officials; evaluating referees; and researching and comparing fight records of professional fighters to ensure fair matchmaking.

The CAI and Assistant CAI positions were abolished because the Commission left the positions vacant past the amount of time allowed under state law. The Commission left the positions vacant to reduce costs and rebuild its fund when it was at risk of insolvency. At the same time, this was only possible because the Commission's current EO has extensive experience in the regulation of combat sports and could perform matchmaking oversight and the Lead Inspectors could oversee the field operations.

However, this also means the current EO is performing the duties of the chief executive and chief enforcement officer. Restoring the option for the Commission to hire a CAI and Assistant CAI would allow the EO to focus on the overall operations and management of the Commission, as well as interact more with oversight organizations like the ABC. This would include additional efforts to perform outreach and research in response to issues noted below, such as Issue #5 (Transgender Licensure), Issue

²⁰ <https://www.tdlr.texas.gov/sports/sportslaw.htm#2052151>; <https://www.tdlr.texas.gov/sports/sportsrules.htm#6180>.

7 (Neurological Examinations, and Issue #9 (Pension Reform). It could also give the Commission the flexibility to improve its enforcement of Issue #11 (Unsanctioned Events) and Issue #12 (Out-of-Competition Use of Prohibited Substances).

Further, the current model is unsustainable because there is no succession pathway in the event the current EO leaves the Commission. While the Assistant EO could assume the chief executive functions, there is no full-time position that could also assume the role of chief enforcement officer.

While the prior cuts were made to restore the Commission's fund balance, the Commission now has around eight months of reserves. At the end of FY 2011/12, the Commission had a fund balance of \$23,000 around three days of operating expenses. Despite a healthy reserve fund, the Commission is still operating with a very lean staff. Further, the Commission is currently working with an appropriation that is close to its FY 2007/08 appropriation.

Staff Recommendation: *The Committees may wish to consider amending the Boxing Act to reauthorize the Commission to hire a CAI and Assistant CAI.*

ISSUE #3: Auditor Recommendation: Neurological Examination Ticket Assessments. Are there any options for accelerating the process for establishing the Commission's fee assessment on tickets for the Neurological Examination Account?

Background: In 2012, the California State Auditor performed an audit of the Commission due to issues with the overall management of the Commission.²¹ While the majority of the auditor's recommendations have been implemented, there are three outstanding. The first is outstanding recommendation is recommendation 7, relating to the Commission's license tracking system. This recommendation is discussed under Issue #4 below. The second is recommendation 9, which will not be implemented as it pertains to a disagreement on the interpretation of the Commission's regulations. The third is recommendation 22, which is outside of the Commission's control. Recommendation 3 states that the "commission needs to establish regulations that describe its process for determining its ticket assessment for the Neurological Examination Account so that it avoids the use of underground regulations."

According to the Commission, on August 12, 2016 the Commission submitted to the Office of Administrative Law (OAL) regulation changes regarding specific medical examination procedures, including the recommended Neurological Examination Assessment. The Commission submitted a complete rulemaking file to DCA for review and approval on November 11, 2016. As a result of the recent implementation of the C3Logix Program and the change in the Commission's appropriation of the Neurological Fund, Commission staff recommended additional conforming changes to the proposed language.

On March 14, 2017, the Commission approved withdrawing the submitted proposed regulation file to allow additional time to prepare and propose a new rulemaking file. On August 15, 2017, the

²¹ State Athletic Commission: Its Ongoing Administrative Struggles Call Its Future Into Question 2012-117 (March 2013).

Commission approved the proposed changes. On August 29, 2017, the rulemaking package was submitted to DCA and is currently in the review process by the DCA and by the Business, Consumer Services and Housing Agency. The Commission expects project approval and implementation by December 1, 2019.

Staff Recommendation: *The Commission should keep the Committees updated on its progress with the regulations process and any additional hurdles it has encountered or anticipates. If the Commission expects additional delays, it may wish to consider statutory changes as an alternative.*

ISSUE #4: Outdated Technology Systems. What is the status of the Commission's upgrade to a new license tracking system?

Background: This is a continuation of Issue #1 from the Commission's 2015 Sunset Review. The Commission is one of the DCA licensing entities that was scheduled to update its license tracking system with the DCA's newer BreEZe system. The Commission was one of the entities scheduled for the third phase of the BreEZe rollout. However, the Commission is still using a Microsoft Office Excel Spreadsheet to track internal licensing data.

Significant issues and delays with the first two phases resulted in DCA suspending the rollout of BreEZe before reaching the phase three entities. However, all entities were paying into the project with the expectation they would be upgraded. At the time, it was unclear what would happen to the funds the phase three entities paid into the project.

After an investigation into the issues, the California State Auditor noted that the problems were in part due to a failure to adequately identify the business needs of each entity.²² Before moving forward with BreEZe for the phase three entities, the State Auditor recommended that the DCA work with the California Department of Technology (CalTech) to analyze the costs and benefits of switching for each of the remaining boards.²³

To that end, the DCA is working with CalTech to utilize Caltech's Project Approval Lifecycle²⁴ to determine whether BreEZe is the correct solution for each of the remaining entities. The DCA has also updated and expanded its Organizational Change Management process, currently called the Business Modernization Plan, which is performed through its Strategic Organization, Leadership, and Individual Development (SOLID) unit. The intent of the Business Modernization Plan process is to provide comprehensive business analyses, which is the first step of the Project Approval Lifecycle.

SOLID and the Commission have started the Business Modernization Plan. The Commission inventoried their business processes in August 2017 and is scheduled to begin business analysis in October 2019.

²² California State Auditor, *California Department of Consumer Affairs' BreEZe System*, Report 2014-116, February 2015, at page 24.

²³ *Id.* at page 49-51.

²⁴ California Department of Technology, *How Do I Start a Project?* (2018), available at <https://cdt.ca.gov/project-delivery/how-do-i-start-a-project/>.

Whether moving forward with BreEZe or another IT solution, the Business Modernization Plan should help provide the Commission with planning, information, and training to improve operational and administrative issues going forward. However, the Commission reports that this project creates workload issues as staff redirects its attention from their regular duties. The Commission anticipates having a new system in place by 2023.

Staff Recommendation: *The Commission should update the Committees and discuss its progress with the Business Modernization Plan, when it anticipates moving to the next stage in CalTech's Project Approval Lifecycle, whether the BreEZe contributions will cover the costs of the Business Modernization Plan, and how the redirection of staff resources have and will continue to impact the Commission's operations.*

LICENSING ISSUES

ISSUE #5: Transgender Licensure. Does the Commission have plans for reducing stigma and lack of understanding as to transgender and other LGBTQ issues among the combat sports community and the public in general?

Background: This is a continuation of Issue #11 (Transgender Licensure) from the Commission's last sunset review. In 2015, the Commission adopted regulations for the licensure of transgender athletes and has issued licenses pursuant to the regulations since then. This is consistent with many international organizations that oversee combat sports, including the Association of Boxing Commissions (ABC) and the International Olympic Committee (IOC).

However, there are still clear instances of discrimination and lack of understanding among the combat sports community and the public.²⁵ At the same time, there is no avenue for a transgender athlete who has completed gender confirmation to compete in the division of the athlete's formerly designated sex at birth (e.g. a transgender male fighting in a female division).

Therefore it may be helpful for the Commission to perform additional research and educational outreach on the issue. For example, as noted under the Committees and Major Changes section above, the Commission has established a Gender Equity Subcommittee to explore issues related to gender equity, including sexual harassment, pay disparity, education for trainers to understand gender specific issues, and improper barriers to those of different genders for fight, coaching, and management opportunities.

The Gender Equity Subcommittee has already started to meet and is looking into Commission data to compare numbers related to fights. For example, it has found that there is a correlation between the number of rounds in a bout and marketability. When female fighters compete in fewer rounds, they tend to make less and have fewer fights. Further, the assumption that female fighters should not fight as many

²⁵ For example, see: <https://www.mmamania.com/2018/1/12/16882832/paulo-costa-offers-to-beat-up-transgender-fighter-fallon-fox-for-free-ufc-mma>; see also: <https://www.mmafighting.com/2018/2/14/17011776/brazilian-promotion-books-mma-fight-between-man-transgender-woman>.

rounds as male fighters is unsupported by any evidence. This suggests that a change to this norm could improve the marketability and pay of underpaid female fighters.

Given that the Committee has unique access to the Commission's fight data, the Committee may also be a useful avenue for exploring transgender issues as well. Another consideration could be to continue to work with combat sport oversight bodies such as the ABC to look at their data, perform outreach, and work on the unified rules to reduce the risk of discrimination and inequality. It may also add this to the list of issues to explore when partnering with research institutions, as noted under Issue #8 below, Research Partnerships and Data Analysis.

Staff Recommendation: *The Commission should update the Committees on any steps taken or plans it may have with regard to eliminating bias against transgender and other LGBTQ individuals, such as educating the combat sports community and the public, utilizing or creating a subcommittee, or working with the ABC and other combat sport oversight entities.*

ISSUE #6: Therapeutic Use of Prohibited Substances. Is the Commission continuing to look into research related to abuse of performance enhancing substances in comparison to use for therapeutic purposes?

Background: This is a continuation of Issue #10 (Use of Performance Enhancing Substances) from the Commission's last sunset review. The Commission, as well as other states, have worked to develop pathways for approval for licensees to use prohibited substances and developed exemptions for therapeutic use of certain substances, such as growth hormone treatments for acromegaly and testosterone replacement therapy for hypogonadism.

While the Commission relies on the World Anti-Doping Agency (WADA) standards for therapeutic use exemptions, there are still questions about the trade-offs between deterrence and fighter safety over discrimination against individuals with health conditions or those who have been sufficiently penalized. For example, is there a way to distinguish hypogonadism from as a result of aging versus the use of anabolic or androgenic substances? If so, is this true of all substances? Given the variety of new substances and regimens, it may be helpful to continue research in this area.

Staff Recommendation: *The Commission should advise the Committee about updates in the research surrounding the distinctions between naturally occurring conditions requiring the use of prohibited substances and conditions as a result of the use of those substances.*

ISSUE #7: Neurological Examinations. How is the new C3Logix system working so far, and what are the options for using the data collected?

Background: This is a continuation of Issue #13 (Proper Use of the Neurological Examination Fund) from the Commission's prior sunset review. The Commission is required to collect assessments on event tickets, which are deposited into the Neurological Examination Account, for purposes of performing neurological examinations on fighters. The goal is reduce injuries related to head trauma. However, the

funds have traditionally not been used well due to the Commission's limited authority and the underfunding.

To address the issue, legislation authorized the Commission to explore new diagnostic imaging and testing. The Commission ultimately obtained a contract with C3 Logix to provide affordable tools to conduct neurological testing of athletes. This testing determines the relationship between the biomechanics of impact forces to the brain and their behavioral and physiological sequences to advance diagnostics, athlete care, return to play standards, understanding of the acute and long-term effects on brain health, and effective rehabilitation techniques to allow a safer environment for competition. The neurological testing is given before and after competition. The Commission plans to use the results when making policy decisions regarding the health and safety of the athletes. So far, the Commission has administered over 1000 tests.

However, it is unclear whether other states are using the test as well, which may lead to less data. To address this, the Commission plans to advocate for more uniform testing globally (Strategic Plan Goal 1.6). Further, it may be helpful to utilize this data, along with other Commission data collected surrounding injuries, with future research partnerships (Issue # 8 below).

Staff Recommendation: *The Commission should update the Committees on how the C3 Logix data has been used to inform its policy-making and suspension timelines, if at all, and advise the Committees of its future plans to research and utilize this data.*

ISSUE #8: Research Partnerships and Data Analysis. Does the Commission need additional authority to collect data and form partnerships with academic research programs?

Background: As a regulator that handles a significant number of fights, the Commission is uniquely positioned to collect data and develop recommendations and best practices. For example, in 2015, the California State Athletic Commission officially established the practice of dehydration and weight cutting as one of the largest industry wide health concerns. It even held a summit in California on June 7, 2018, to address the most pertinent issues.

It has also helped develop a severity index for boxing and MMA, which is a predictive algorithm that can calculate a fighter's calculates a fighters' risk of suffering acute or chronic brain injury based on certain metrics. The tool helps state commissions and promoters determine whether matches are safe. The algorithm utilizes prior data, including win-loss ratios and injuries. If the Commission is able to utilize its other data, such as its C3 Logix data and data from other states, it may be able to refine its matchmaking policies to further reduce the risk of injuries. Further, the Commission also wishes to form partnerships with research organizations, which may be able to perform data analysis at a level above the Commission's current capacity.

Staff Recommendation: *The Commission should and advise the Committees on its plans to utilize its data and whether it needs any additional authorities, statutory or otherwise, to do so.*

ISSUE #9: Pension Reform. What is the Commission's plan for reforming and expanding its boxing pension program?

Background: Professional Boxers Pension Fund (Issue #12). Created in 1982, the Professional Boxers Pension Fund provides benefits to former boxers. However, it may not be appropriately designed to meet the actual health and welfare needs of these athletes. Since the last sunset review, the Commission has significantly increased Pension Plan distributions to qualified retired boxers, despite the obstacles in locating potential claimants. The Commission continues to improve its outreach efforts which is noted under its strategic plan goals 6.2 and 6.3.

Another limitation of the pension fund is that it does not include MMA fighters. The Commission's strategic plan goal 6.1 is to explore broadening the plan to include MMA fighters. However, it is unclear how the plan will be structured, given that it is based on certain characteristics specific to boxers. Another option would be to create a separate plan, but pension plans are no longer popular in general due to the risk of underfunding.

Staff Recommendation: *The Commission should advise the Committees of its plans to improve and expand the pension plan.*

ENFORCEMENT ISSUES

ISSUE #10: Youth Pankration Marketing. What is the Commission's solution to ensuring that its delegated entities maintain the distinction between amateur MMA and youth pankration?

Background: Currently, the Commission delegates its oversight of amateur combat sport events to other entities. However, this delegation is limited to the specified sports and the limiting rules and regulations. This ensures there is no unnecessary confusion amongst the promoters or murky areas of authority.

However, at a recent Commission meeting in December of 2018, it was noted that the delegated entity that oversees youth pankration, the USA Fight League (USFL), advertises itself as a sanctioning body for "Pankration, Grappling and Mixed Martial Arts."²⁶ According to the USFL representative, the reason the organization does this is because not many people are familiar with pankration as a combat sport.

Because people are much more familiar with MMA, it is easier to use for marketing purposes. This is not unique to pankration. Historically other forms of martial arts have used more commonly known names for purposes of attracting students, such as karate instead of tae kwon do. However, the USFL is not a gym or studio attracting clientele, it is a sanctioning organization responsible for the safety of the events it is responsible for overseeing.

²⁶ <https://fightleague.org/>

Staff Recommendation: *The Commission should advise the Committee about its plan to address the issue of marketing without risking activity that is beyond the authority of its delegated entities?*

ISSUE #11: Unsanctioned Events. What are the Commission’s options for actively regulating “smokers,” rather than passively waiting for complaints or hearing about them via social media or blogs?

Background: Because there is no beginner-level competition below amateur, many fighters and trainers resort to competing in “smokers,” organized full-contact events that are unsanctioned. They are often characterized as inter-gym sparring events to assuage suspicion. However, due to the lack of regulation, there are few checks against coming in overweight, dehydration, mismatches, and other issues that jeopardize the health and safety of the participants. This is exacerbated by the fact that medical personnel are not likely on-site.

Historically, the Commission’s poor fund condition limited its ability to actively inspect or investigate unsanctioned events. With its now healthy reserve, the Commission plans to do more.

Staff Recommendation: *The Commission should advise the Committee about ways to regulate lower-level matches, such as requiring gyms that offer sparring to register or undergo jurisprudence training. It should also discuss whether it has the authority, staff, and funding it needs.*

ISSUE #12: Out-of-Competition Use of Prohibited Substance. If necessary, is there a way to strengthen the ability to deter and detect the use of prohibited substance use that may avoid detection or provide unfair advantages in the long-term?

Background: The use of performance enhancing substances is still prevalent, and the methods for avoiding detection are becoming more sophisticated. Further, the muscle and stamina gains made from higher levels of training are not quickly lost. Further, there are long term impacts that could result in the need for a therapeutic use exemption. While the Commission’s fine authority recently increased significantly, providing a much greater deterrence for the higher paid athletes, it may still be helpful to continue to explore ways to deter use before it happens.

The Commission’s strategic plan goal number 1.2 is to enhance drug testing practices to reduce doping violations and protect licensees. In that vein, are there other ways in addition to increasing and improving testing to do so? For example, a common reason for a positive test is that it was an accidental ingestion through a tainted supplement. Would it be worth requiring fighters to disclose their supplement intake to the Commission at the time of licensure? In the case where a fighter’s diet is closely monitored, should there be some responsibility on the training camp?

Staff Recommendation: *The Commission should advise the Committees about solutions it has considered and any additional statutory or budget changes it would require to implement them.*

TECHNICAL CLEANUP

ISSUE #13: Technical Cleanup.

Background: There may be technical clean-up that can clarify the Boxing Act and improve the Commission's implementation of the Act.

Staff Recommendation: *The Commission should recommend cleanup amendments, if any.*

CONTINUED REGULATION OF THE PROFESSION BY THE COMMISSION

ISSUE #14: Should the licensing and regulation of martial arts contests continue to be regulated and, if so, by the current Commission membership?

Background: Due to the inherent risk of harm in combat sports, as well as the financial incentives, the licensing and regulation of combat sporting events should continue. The state also benefits from holding these events in California. If the Commission were to sunset, large scale events held in large venues throughout the state will not happen, taking with them the economic windfall to local businesses and the state as a whole. Most significantly, fighting will still take place, in underground, unregulated environments where athlete will be at greater risk of injury and being taken advantage of.

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, since 2012, the current membership, management, and staff 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: *The current Commission and its authority to administer and enforce the Boxing Act should be extended for four years to 2023, to be reviewed again in 2022 by respective Committees of the Senate and Assembly.*