



State Athletic Commission

Its Ongoing Administrative Struggles Call Its Future Into Question

Report 2012-117

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March 21, 2013

2012-117

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the California State Auditor (state auditor) presents this audit report concerning the financial management and administrative operations of the State Athletic Commission (commission). The commission is one of 40 regulatory entities within the Department of Consumer Affairs (Consumer Affairs) and its primary duty is to protect the health and safety of athletes by regulating approximately 200 combative events annually. The commission's revenues are generally derived from taxes, assessments, and fees collected from the events it regulates.

This report concludes that the commission's lack of leadership on the part of the former executive officer and his failure to promptly communicate with the commissioners regarding the state of its operating budget, likely contributed to the commission's near insolvency. As a result, the commission did not formally begin to take steps to address its financial instability until June 2012, at which time the commission had a fund balance of just \$23,000. At that point, the commission attempted to resolve its financial situation by developing a solvency plan outlining its cash-flow situation and containing its proposed efforts to reduce its costs. However, we are concerned that the plan is not practical and that the commission lacks a comprehensive approach to ensuring its financial stability in the long term. For example, the plan proposes drastic cuts to expenses related to athletic inspectors' (inspectors) wages and travel and effectively prevents the commission from increasing its staffing level, which is likely unrealistic given it has struggled to adequately perform its functions with its current staffing level. Further, the plan eliminates funding for training inspectors on how to properly regulate events, even though state law requires that inspectors receive training within six months of an event that they are scheduled to work. Because of these and other concerns, we do not believe that the commission can use the plan as a long-term solution to ensure its future financial stability.

Moreover, the commission seems ill-prepared to accurately estimate its costs and revenues because, until recently, it has consistently failed to adequately track key components of its operations, including the number of events that it regulates, the revenues and expenditures associated with those events, the number of inspectors assigned to each event, and the number of athletes that it licenses. Finally, deficiencies in the commission's processes for collecting, recording, and reporting revenues from events suggest that it lacks assurance that it has collected and accounted for all of the revenues it is due.

The commission also lacks assurance that it has consistently protected the health, safety, and welfare of athletes as the law requires. For example, in violation of state law, the commission has at times failed to maintain supporting documentation demonstrating that it ensured the safety of athlete's gear and equipment. State law also requires the commission to administer the Neurological Examination Account (neurological account), which the Legislature established in 1986 to pay for athletes' neurological examinations and the Boxers' Pension Plan, which the Legislature established to provide some financial security to retired boxers; however, the commission has not effectively managed either of them. Specifically, the commission has not used the neurological account to pay for any neurological examinations since at least 1998 and, from fiscal years 2002–03 through 2008–09, it failed to make any pension payments to eligible boxers or their beneficiaries. The current executive officer, who began working at the commission in November 2012, has made noteworthy strides in addressing several of the issues we discuss in this report. However, if the commission is unable to correct its most significant deficiencies within a reasonable time frame, we believe the Legislature should consider transferring its responsibilities to Consumer Affairs.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

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Summary

Results in Brief

The State Athletic Commission (commission) is one of 40 regulatory boards, committees, and bureaus within the Department of Consumer Affairs (Consumer Affairs). Generally, these entities regulate and license professional and vocational occupations to protect the health, safety, and welfare of the people of California. The commission has various responsibilities, including setting standards for amateur and professional boxing, kickboxing, and mixed martial arts, and issuing licenses to promoters, managers, referees, trainers, and athletes. However, its primary duty is to protect the health and safety of athletes by regulating approximately 200 combat events annually. The commission is also responsible for administering the Boxers' Pension Plan (pension plan). The commission is intended to be self-supporting—paying for its operations using taxes, assessments, and fees collected from the events it regulates.

Recently, the commission came perilously close to insolvency as a result of multiple factors, the most notable of which was a lack of effective management and communication on the part of the former executive officer. Not only did the former executive officer fail to accurately budget the commission's funds, he also did not promptly communicate with the commissioners about the commission's financial situation. Specifically, although Consumer Affairs stated that it notified the former executive officer of the commission's unstable financial condition as early as December 2011, he did not inform the commissioners of the commission's revenue deficiencies until April 2012. In part, as a result of his delay and of the commissioners not taking prompt action, the commission ended the fiscal year with a fund balance of just \$23,000, enough to cover only three days of operating costs. Thus, the commission's lack of procedures delineating the role of the executive officer in communicating with the commissioners about critical administrative processes unquestionably contributed to its financial crisis.

In July 2012 the commission completed a solvency plan that detailed the steps it would take to avoid insolvency and create a healthy fund reserve through fiscal years 2012–13 and 2013–14. According to the director of Consumer Affairs, the commission intended the plan to be a short-term effort to control costs; however, the commission has no other plan that includes realistic actions to guide it into solvency over the long term. We are concerned that many of the changes the plan outlines may prove impractical and too drastic to sustain over time. For instance, the plan relies solely on the commission's ability to dramatically reduce its spending from approximately \$1.83 million in fiscal year 2011–12 to nearly \$1.2 million in fiscal year 2012–13. This represents a decrease of \$635,000, or 35 percent—a drastic reduction.

Audit Highlights . . .

Our audit of the State Athletic Commission (commission) and the Department of Consumer Affairs (Consumer Affairs) highlighted the following:

- » *Because the commission's former executive officer did not promptly inform the commissioners of the commission's revenue deficiencies and the commissioners did not take prompt action, the commission ended fiscal year 2011–12 with a fund balance of just \$23,000—enough to cover only three days of operating costs.*
- » *The commission has no long-term plan to guide it into solvency. Its July 2012 solvency plan—intended to be a short-term effort to control costs—includes changes that may be impractical and too drastic.*
- » *The commission failed in its responsibility to manage its financial and administrative operations.*
 - *It did not adequately track information critical to develop and adhere to an annual budget and was likely not fully aware of how events it regulated affected its financial condition.*
 - *It failed to ensure it receives all the revenue that it is due from taxes, assessments, and fees it assesses on event promoters and athletes.*
- » *The commission lacks assurance that it has consistently protected the health, safety, and welfare of athletes as the law requires—many of the 12 event files we reviewed could not demonstrate that inspectors performed necessary regulatory functions at events.*

continued on next page . . .

- » *The commission has not effectively managed the Boxers' Pension Plan (pension plan).*
- *It has not ensured that the vast majority of boxers receive the benefits to which they are entitled.*
 - *For at least the last five fiscal years, it failed to transfer pension plan revenue from the Boxers' Pension Fund into its higher-earning investment account.*
 - *It spent nearly 88 percent of annual contributions on its administration from 2009 through 2011 when state law limits the administrative expenses to 20 percent of the prior two years' average annual contributions.*

The plan proposes to achieve these savings primarily through cuts to the wages and travel expenses the commission pays to the athletic inspectors (inspectors) who regulate events. To achieve these cuts, the commission does not intend to reduce the number of events that it regulates; rather, it plans to significantly decrease the number of inspectors at each event. According to the plan, whereas the commission previously assigned six to 12 inspectors per event, the plan now requires it to assign just three to five. However, the current executive officer believes that a minimum of five inspectors at each event is necessary to ensure athletes' safety, leading us to question whether the commission can provide an adequate level of oversight of events if it follows the plan. In addition, the plan completely eliminates training for inspectors, even though state law requires that inspectors receive such training six months prior to every event they regulate. Because of these and numerous other concerns, we do not believe that the commission can use the plan as a long-term solution to ensure its future financial stability.

The commission's near insolvency was undoubtedly in part the result of its failure to adequately track information critical to its ability to develop and adhere to an annual budget. For instance, the commission did not begin to consistently track the events it regulated and the associated revenue and expenditures until January 2013, leaving us to question how it could ever have developed reliable budgets. Moreover, because it lacked these data, the commission was likely not fully aware of how the events it regulated affected its financial condition, contributing to its expenditures exceeding its revenues. In fact, our estimates suggest that a significant number of the smaller events in the past may have cost the commission more to regulate than they generated in revenues. It is therefore critical that the commission track the information necessary to determine whether regulating certain events may cause it to exceed its available revenues.

Moreover, although the commission primarily generates its revenues from taxes, assessments, and fees it assesses on event promoters and athletes, it has failed to ensure that it receives all the revenue that it is due. In fact, our review of 12 event files for fiscal years 2010–11 and 2011–12 found that the commission failed to perform one or more critical functions related to each event, resulting in the potential loss of nearly \$4,600. For example, although one of the inspectors' key functions at events is to calculate the revenue that promoters must remit to the commission, we noted a number of instances in which the inspectors either failed to perform necessary calculations entirely or performed them incorrectly. In addition, in some instances, the commission may have left itself vulnerable to human error or fraud. Specifically, the commission did not ensure that promoters submitted documentation supporting the information used to

determine the amount of revenue the promoters should remit. Further, the commission did not appropriately track or handle the revenues it received.

Not only has the commission failed in its responsibility to manage its financial and administrative operations, it also lacks assurance that it has consistently protected the health, safety, and welfare of athletes as the law requires. Many of the 12 event files we reviewed lacked documentation critical to demonstrating that the commission's inspectors had performed necessary regulatory functions at events. For example, one file lacked evidence that an athlete had received a prefight physical. Further, more than half the files lacked documentation that inspectors had checked the athletes' equipment and gear and the safety of the cage or ring. Finally, the commission could not adequately demonstrate that it had consistently provided training to inspectors as required by state law until the current executive officer offered training in December 2012 and January 2013. As a result, the commission cannot be sure that its inspectors had the necessary knowledge to properly regulate events.

The commission has also failed to adequately administer its Neurological Examination Account (neurological account), which the Legislature established in 1986 to pay for neurological examinations that might detect physical conditions that could place athletes at risk for serious or permanent injury. Although the fund balance in the neurological account reached \$712,000 as of June 30, 2012, the commission has not used the account to pay for examinations since at least 1998, stating that it could not do so because of the excessive cost of the examinations. Instead, it has used the neurological account only to pay for state operations, such as a portion of the salary and benefits of the staff person who is responsible for verifying the accuracy of the neurological assessment calculation. The commission is considering requesting legislation that would change its responsibilities related to paying for these examinations. However, until the Legislature makes such a change, the commission is failing to use the funds to fulfill the intent of the law.

Further, the commission has not effectively managed the pension plan, which the Legislature established to provide a modest amount of financial security to retired boxers. Specifically, the commission has not ensured that the vast majority of boxers receive the benefits to which they are entitled. From fiscal years 2002–03 through 2008–09, the commission failed to make any pension payments to eligible boxers or their beneficiaries, in part because it lacked a policy for locating these boxers. In 2009 it began to distribute payments; however, only 46 boxers' pension accounts were distributed, or 14 percent of those eligible,

during 2009 through 2011. Moreover, for at least the last five fiscal years, the commission failed to transfer pension plan revenue from the Boxers' Pension Fund (pension fund) into its higher-earning investment account, resulting in potential lost earnings of about \$20,000. Finally, although state law limits the amount the commission can spend on the pension plan's annual administrative expenses to 20 percent of the prior two years' average annual contributions, the commission spent nearly \$256,000—about 88 percent of annual contributions—on its administration from 2009 through 2011. As a result of the commission's poor management, the pension plan is not fully meeting its intended purpose.

Over the past 10 years, a number of audits and reviews have noted serious deficiencies in the commission's administration, yet the commission has consistently failed to address these issues. We therefore question whether the commission will promptly and adequately address the serious concerns we raise in this report. Although the current executive officer, who assumed office in November 2012, has taken considerable steps to correct some of its deficiencies, the commission still faces significant obstacles—most notably a lack of sufficient staffing. The Legislature plans to conduct a sunset review of the commission in April 2013 to determine whether it should continue its operations. If the commission, with the assistance of Consumer Affairs, is able to develop and follow a plan to correct the issues we have noted, it may be able to demonstrate that it can operate effectively. However, if the commission is unable to make significant improvements within a specified time frame, we believe the Legislature should consider transferring the commission's responsibilities to Consumer Affairs.

Recommendations

To increase transparency and to ensure that commissioners provide a sufficient level of oversight over the commission's operations and budget process, the executive officer should work with the commissioners to establish written policies and procedures that delineate the executive officer's responsibilities related to communicating with the commissioners.

To ensure its future financial stability, the commission should work with Consumer Affairs to establish a long-term financial plan that sets a reasonable annual budget for expenditures, ensures that it can assign an adequate number of inspectors to each event, and provides sufficient funds for it to conduct required trainings for its inspectors.

To ensure that it adequately tracks the information necessary for it to establish and follow its budget, the commission should do the following:

- Develop and implement procedures and written guidelines for staff to follow so that it consistently tracks information related to all events and their associated revenues and expenditures.
- Once it has developed a reliable listing of the events it regulates, conduct an analysis to determine the manner in which events affect its financial condition. For example, the commission could compile the expenditures related to each event, including inspectors' wages and travel, and compare its expenditures to the revenues it received from each event. Although the commission may need to regulate small events to ensure that it meets its responsibilities, it should still consider the cost of doing so in order to ensure that expenses do not exceed the anticipated revenues.

To ensure that it accurately collects revenues, the commission should formalize policies and procedures directing inspectors to take the necessary steps to make sure they correctly and consistently calculate taxes, assessments, and fees in accordance with state law and regulations. The commission should also continue its efforts to ensure that promoters are aware of their responsibility to submit key documents that substantiate their payments.

To ensure that it maintains adequate documentation demonstrating that it has regulated events in accordance with state law, the commission needs to update its policies and procedures to ensure that inspectors prepare and submit key documents after events.

To ensure that inspectors receive training as required by law, the commission needs to conduct trainings every six months, or at least six months prior to a scheduled event.

To ensure that it uses the neurological account as the Legislature intended, the commission needs to conduct a thorough analysis that identifies the average cost of neurological examinations and the number of athletes whom it licenses. If, after performing such an analysis, the commission believes it cannot comply with the law as it is currently written, it needs to work with its legal counsel and the Legislature to determine a reasonable alternative use of the neurological account and propose statutory changes as necessary.

To operate the pension plan effectively, the commission should create policies and procedures for its administration that include steps for locating boxers and transferring funds into the investment account.

To comply with state law, the commission needs to limit its expenditures for administering the pension plan to 20 percent of the average of the prior two years' contributions to the pension fund.

To ensure that it addresses this report's findings in a timely manner, the commission should work with Consumer Affairs to develop an action plan to prioritize and resolve its most significant deficiencies within a specified time frame. If the commission fails to implement its plan by the time frame specified, the Legislature should consider transferring its responsibilities to Consumer Affairs.

Agency Comments

The commission and Consumer Affairs agreed with our recommendations and indicated that they have begun implementing them.

Introduction

Background

The State Athletic Commission (commission) is one of 40 regulatory entities within the Department of Consumer Affairs (Consumer Affairs). Generally, these entities consist of boards, committees, and bureaus that regulate and license professional and vocational occupations to protect the health, safety, and welfare of the people of California. Although the commission is a semiautonomous body, state law gives Consumer Affairs general oversight authority over it. For example, Consumer Affairs provides legal, human resources, accounting, and legislative services to the commission. As it relates to the commission's budget, Consumer Affairs' budget office explained that it provides technical support to the commission as well as expenditure and revenue projections to aid the commission in monitoring its budget. However, Consumer Affairs does not have approval authority over the commission's budget; rather, the commission is responsible for setting and balancing its budget.

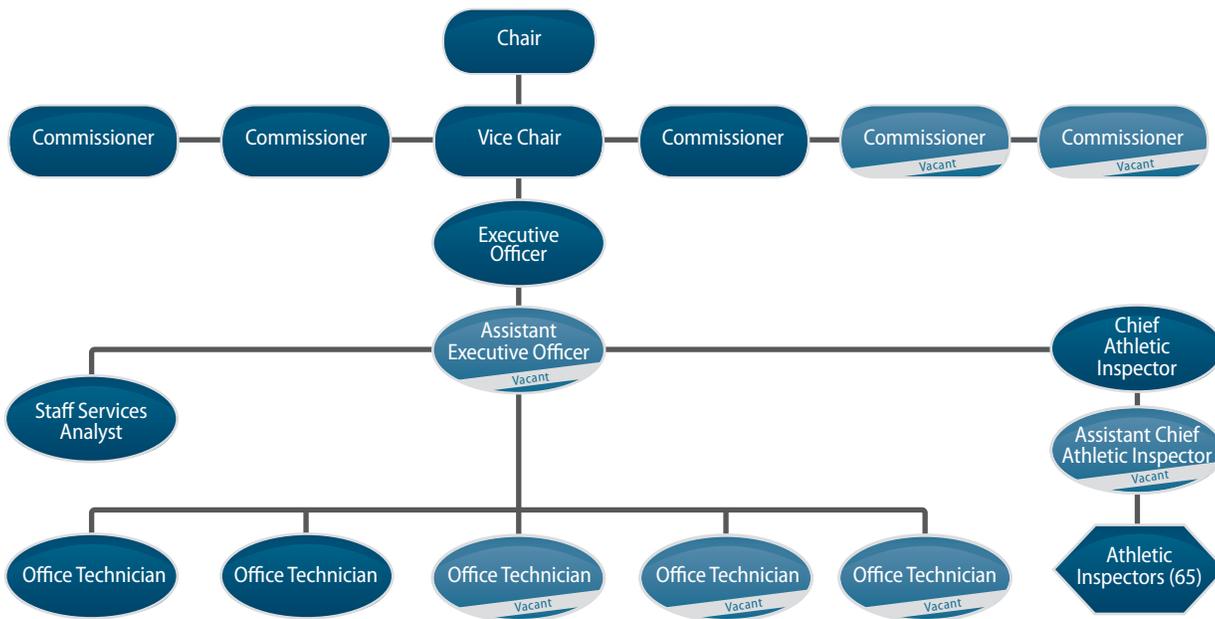
Established by an initiative in 1924, the commission is responsible for the following:

- Setting standards for amateur and professional boxing, kickboxing, and mixed martial arts.
- Conducting examinations and regulatory inspections of these sports.
- Issuing licenses to individuals in these professions, such as promoters, managers, referees, trainers, and athletes.

To meet these responsibilities, the commission consists of seven commissioners, five of whom are appointed by the governor, one by the Senate Rules Committee, and one by the speaker of the Assembly. As shown in Figure 1 on the following page, two of the commissioner positions are currently vacant. State law stipulates that the governor and Legislature should make every effort to ensure that at least four of the seven members are either licensed physicians having expertise or specializing in neurology, head trauma, or sports medicine; have past experience as contestants, referees, officials, promoters, or venue operators; or have experience and expertise in financial management or public safety. According to the commission's Web site, its current commissioners are experienced in a variety of areas, including law enforcement, neurosurgery, and neurology. The commission also has positions for 10 full-time staff to handle its day-to-day operations; of these positions, five are currently vacant. The executive officer is responsible for carrying out the policies of

the commissioners, including managing the budget, directing and managing commission staff, and, with the assistance of the chief athletic inspector, overseeing the activities related to the commission’s athletic inspectors (inspectors).

Figure 1
State Athletic Commission Organization Chart



Sources: Information as of February 2013 provided by the Department of Consumer Affairs’ office of human resources and the Department of Finance’s fiscal year 2012–13 Salaries and Wages.

Note: As we discuss later in Chapter 1, the State Athletic Commission’s solvency plan stipulates that it maintain its staffing level at five filled office positions, shown above, excluding the commissioners and athletic inspectors. Further, the solvency plan reduces all expenditures for temporary help to zero; thus, we do not present these positions in the organization chart.

Generally, the commissioners are not involved in the commission’s day-to-day administration. For instance, the commissioners do not play a role in establishing the commission’s budget. As members of the policy-making body, however, the commissioners are responsible for decisions that ensure the protection of consumers—both the public and licensees. The commissioners may approve or disapprove proposed regulations relating to the functions, duties, or requirements for the licensees. Another key function that the commissioners serve pertains to reviewing decisions from events. Specifically, the executive officer explained that an athlete will file an appeal or complaint in writing to the commission and will have the opportunity to present his or her case to the commissioners in a public forum. He stated that after reviewing the athlete’s written

appeal, supporting information, and public comment, the commissioners will make a final determination on the outcome of the appeal or complaint.

Regulation of Events

One of the commission's primary responsibilities is regulating events to protect the health and safety of athletes. The commission generally relies on inspectors to provide administrative and regulatory oversight at events. As of February 2013 the commission reported that it employed approximately 65 part-time inspectors, 24 of whom were also employed by the State in other capacities. According to the commission's July 2012 solvency plan, the commission has historically assigned up to 12 inspectors to regulate an event; however, in an effort to cut costs, the solvency plan calls for the assigning of three to five inspectors to each event going forward.

Inspectors have a variety of responsibilities when regulating events, as shown in the text box. According to the executive officer, a lead inspector should generally work no more than 14 hours at an event, including time spent at the weigh-in and completing paper work, whereas an inspector should work no more than eight hours at an event, excluding time, if any, at the weigh-in. Many of these duties relate to ensuring the safety of the athletes and the event's compliance with state regulations. Other duties are administrative in nature, such as calculating the amount of taxes, assessments, and fees the commission assesses on promoters. As the text box shows, lead inspectors have a number of additional specific duties compared to those of inspectors who are not the lead for the event.

Commission staff also spend time preparing for each event. For example, the executive officer is responsible for reviewing and approving each request to hold an event to ensure that the promoter meets all legal and financial requirements and is in good standing with the commission. Once the executive officer

Athletic Inspectors' Duties

Lead athletic inspectors' duties related to the regulation of events include the following:

- Prepare various documents for events, such as the scorecards, payoff sheets, and athlete checklist.
- Collect all outstanding medical or other documentation required for licensure, and collect payment and issue receipts or licenses for those licensed at the weigh-in (these activities can be performed by either the lead inspector or the other athletic inspectors).
- Maintain and make available to the ringside physician medical documentation related to the athletes.
- Assign and coordinate the activities of other athletic inspectors assigned to the event, and perform their duties as needed.
- Reconcile and prepare box office receipts, tickets, and similar items and, when applicable, obtain payment for State Athletic Commission (commission) fees and officials' pay.
- Review documentation to ensure that athlete, manager, official, and commission payments and deductions are correct, and distribute officials' pay.
- Work with promoters, athletes, corner people, media, officials, and various others involved in holding an event to resolve last-minute issues.

Athletic inspectors' duties related to the regulation of events include the following:

- Assist with documenting, weighing, and verifying that the weight of each athlete meets contract and legal requirements.
- Supervise the dressing room, which includes ensuring that only those affiliated with the athlete are present and that nothing is brought into the dressing room that is not allowed.
- Observe and sign off on hand wraps to ensure compliance with applicable laws, and verify that gloves are the correct weight and type for the bout.
- Perform ring or cage inspection.
- Escort athletes to and from the ring and remain ringside during the bout to observe, provide vigilance, and offer assistance as necessary.
- Distribute the fight purse, and any other checks written by the promoter, to the athletes, and obtain each athlete's signature on the payoff sheet.
- Assist in the reconciliation of box office receipts, tickets, and similar items to determine the amounts to be given to the commission for gate taxes, and neurological and pension assessments.

Sources: Department of Consumer Affairs' position duty statements for the classification and working titles of athletic inspector—event lead and athletic inspector.

approves an event, the chief athletic inspector is responsible for evaluating the athletes' backgrounds and histories to determine the competitiveness and safety level of a proposed match. Finally, an assigned office technician is responsible for collecting and documenting pertinent information related to the athletes' records, licenses, and medical exams. The office technician is responsible for using this information to assemble an event packet that can include other documents, such as evidence of medical insurance, and is to provide the packet to the lead inspector a day before the weigh-in.

Revenue and Administrative Operations

The commission does not receive financial support from the State's General Fund. Instead, it generally supports its functions by using the revenue it receives from the events it regulates and license and license renewal fees it collects from various parties, including athletes. In fiscal year 2011–12, the commission received and deposited about \$1.4 million in revenues from these sources into the State Athletic Commission Fund. During this same year, it expended more than \$1.8 million from the fund, a disparity we discuss in greater detail in Chapter 1. The commission's expenditures averaged about \$1.9 million in fiscal years 2009–10 through 2011–12, with the majority of its expenditures related to staff salaries and benefits, inspectors' wages, and travel costs.

Neurological Examination Account

State law requires that athletes applying for initial licensure receive a number of tests and examinations designed to detect physical conditions that could place them at risk for serious injury or permanent or temporary impairment of any bodily function. These tests or examinations include a neurological examination, a brain-imaging scan, and an electrocardiogram. Although the law requiring these examinations applied only to boxers when it became effective in 1986, the Legislature has since amended it so that it currently applies to all professional athletes licensed by the commission.

To pay for the cost of the neurological examinations, the Legislature established the Neurological Examination Account (neurological account). The funds within the neurological account are derived from assessments made by the commission on promoters, based on a calculation that includes the number of tickets sold. Inspectors are responsible for calculating these assessments as part of their regulation of events. Once the commission receives the funds, staff remit them to Consumer Affairs for deposit into the neurological account.

Boxers' Pension Fund

To provide a small amount of financial security for professional boxers, the Legislature authorized the creation of a Boxers' Pension Plan (pension plan) in 1985.¹ It gave the commission the responsibility for administering the plan and all related funds. The Boxers' Pension Fund (pension fund) receives allocations from three sources: pension contribution assessments, forfeitures from ineligible boxers, and investment earnings minus administrative costs. The commission collects the pension contribution assessments from all promoters of events involving professional boxers. The pension contribution assessment consists of a fee of 88 cents per ticket, with certain exceptions, up to a maximum contribution of \$4,600 per event.

The pension plan does not promise boxers specific benefits; rather, the size of an individual boxer's account determines the benefits for which he or she is eligible, referred to as a defined contribution plan. The plan bases the annual allocation to each boxer's pension account on the number of scheduled rounds the boxer fought in that year and the total cash rewards he or she received for these fights relative to the total rounds all boxers fought that year and the total amount of cash rewards won. To become eligible for their pension benefits, or vested, boxers must do both of the following:

- Fight in at least 10 scheduled rounds per calendar year during each of four calendar years, without an intervening break in service. A break in service occurs when boxers fight fewer than 10 scheduled rounds during 36 consecutive months.
- Fight in at least 75 scheduled rounds, without an intervening break in service.

Vested boxers can begin receiving their annual benefits when they reach age 50. The commission adopted regulations to assist it in locating vested boxers to ensure that they receive the benefits they are due.

Recent Reviews and Audits

The commission has been the subject of numerous reviews and audits over the past 10 years. Since 2003 Consumer Affairs has conducted several audits and reviews of the commission. The majority of the findings from these audits and reviews were administrative or financial in nature. In addition, in July 2005 we issued a report titled *State Athletic Commission: The Current Boxers' Pension Plan Benefits Only a Few and Is Poorly Administered*, Report 2004-134. This report concluded that the commission was both slow and inaccurate in

¹ The pension plan does not currently cover the other types of athletes whom the commission licenses.

performing its administrative duties related to the pension plan. We discuss the commission's implementation efforts associated with the 2005 report's recommendations in the Appendix.

Additionally, in December 2012 we issued a report titled *Investigations of Improper Activities by State Agencies and Employees*, Report I2012-1, in which we reported on the commission's improper overpayments of its athletic inspectors. Specifically, from January 2009 through December 2010, the commission overpaid a total of nearly \$188,700 to 18 part-time inspectors whom the State also employed in other full-time positions, because it inappropriately paid them an hourly overtime rate rather than an hourly straight-time rate for work they performed. In August 2012 Consumer Affairs received a legal opinion concluding that the work performed by the inspectors did not meet the criteria for overtime pay. As a result, the commission ceased paying overtime to the affected employees beginning in October 2012.

Scope and Methodology

The Joint Legislative Audit Committee (audit committee) directed the California State Auditor to conduct an audit of the commission and Consumer Affairs. We conducted fieldwork at the commission and Consumer Affairs. Table 1 outlines the audit committee's objectives and our methodology for addressing each objective.

Table 1
Scope and Methodology

AUDIT OBJECTIVE	METHOD
1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.	With the assistance of legal counsel, we reviewed relevant laws, regulations, and other background materials applicable to the State Athletic Commission (commission) and the Department of Consumer Affairs (Consumer Affairs).
2 Review and evaluate the roles, responsibilities, and authority of Consumer Affairs and the commission's administration of the Boxers' Pension Fund (pension fund), regulation of events, and management of the commission's financial operations to determine if Consumer Affairs and the commission are meeting their respective responsibilities and exercising their authority consistent with any relevant laws by performing the following:	To identify the respective responsibilities of Consumer Affairs and the commission as they relate to the commission's various administrative and regulatory duties, we interviewed key staff from the commission and Consumer Affairs; reviewed state laws and regulations that establish their authority and powers; interviewed individuals involved in administering the Boxers' Pension Plan (pension plan); and obtained documentary evidence, such as commission staff and athletic inspector duty statements, organization charts, and Consumer Affairs' November 2012 board member orientation training materials.
a. Examine the method by which the commission's budget is approved.	<ul style="list-style-type: none"> Interviewed key staff from the commission and Consumer Affairs to determine the process used to develop the commission's budget. In doing so, we learned from Consumer Affairs' budget office that although it provides technical support to the commission on its budget, Consumer Affairs does not have approval authority of the commission's budget. Rather, the budget office explained that the commission's budgeted authority is carried forward from the prior year's budget act. Any changes to the budget are prepared by the commission in a budget change proposal, which is reviewed and signed by the director of Consumer Affairs and the agency secretary of the State and Consumer Services Agency.

AUDIT OBJECTIVE	METHOD
	<ul style="list-style-type: none"> • Examined budget documents, such as fund condition statements and the governor's budgets for fiscal years 2010–11 through 2013–14. • Additionally, we reconciled the fund conditions as reported in the governor's budgets for the State Athletic Commission Fund, the Neurological Examination Account (neurological account), and the pension fund to the State Controller's Office's Budgetary/Legal Basis System for the fiscal years ending June 30, 2010, through June 30, 2012.
<p>b. Review and assess the processes used to make decisions that impact the financial operations of the commission.</p>	<ul style="list-style-type: none"> • Interviewed commissioners and key staff from the commission and Consumer Affairs to understand how decisions are made regarding the commission's financial operations. In doing so, we learned that the commission lacked formalized processes and procedures for tracking and projecting its revenues and expenditures. • Reviewed commission staff duty statements, relevant state statutes, minutes and agendas of commission meetings held during fiscal year 2011–12, and Consumer Affairs' November 2012 board member orientation training materials.
<p>c. Determine whether the information used to make significant decisions includes a sufficient level of detail and is provided to decision makers in a timely manner.</p>	<ul style="list-style-type: none"> • Interviewed commissioners and relevant commission staff, including the former interim executive officer and the current executive officer. • Evaluated minutes and agendas from commission meetings held during fiscal year 2011–12, assessed budget information presented at some of these meetings, and reviewed certain correspondence between Consumer Affairs and the commission. • Assessed the commission's July 2012 solvency plan.
<p>d. Determine if a strategy has been developed to control the commission's costs and increase its revenue.</p>	<ul style="list-style-type: none"> • Interviewed key staff from the commission and Consumer Affairs to ascertain the methodology used by the commission to control its costs as indicated in its July 2012 solvency plan. Reviewed available documentation used to derive the plan's cost-cutting measures. • Because its July 2012 solvency plan lacked any strategies to increase the commission's revenues, we interviewed the former interim executive officer to determine why, and interviewed the current executive officer to ascertain the status of proposals relating to increasing the commission's revenues.
<p>3 Review the internal controls related to the commission's administration of the pension fund, regulation of events, and financial activities to determine if they are designed to ensure efficient and effective operations in these areas. This should include, but not be limited to, performing the following, covering the most recent three-year period:</p>	<ul style="list-style-type: none"> • Interviewed relevant staff and obtained available documentation to identify the process the commission uses to administer the pension plan. • Obtained and reviewed available policies and procedures regarding the commission's internal controls as they relate to the regulation of events. • Reviewed the training requirements for inspectors as specified in state law and reviewed the commission's available training records to determine whether it had complied with the law. • Judgmentally selected 12 files for events that took place in fiscal years 2010–11 and 2011–12; we did not include events occurring in fiscal year 2009–10 because the commission lacked an adequate listing of events and their corresponding revenues for this year. We based our selection of events in part on the amount of revenue they generated, ensuring that we reviewed events that generated both large and small amounts. We also ensured that we included in our selection events that were both amateur and professional.
<p>a. Review and assess the policies and practices used to ensure that all revenues from events are collected and accurately recorded and reported.</p>	<ul style="list-style-type: none"> • Interviewed the chief athletic inspector to determine the process inspectors are expected to follow to ensure that all revenues from events are collected, and interviewed key commission staff to determine how the revenue that is collected is verified and processed. • Assessed the commission's cashiering manual to determine whether it provided adequate guidance to staff and contained appropriate internal controls, such as separation of duties. • Using the selection of 12 event files, we compared the information contained on the respective box office reports to documentation necessary to support revenue collected, which includes ticket sales and gross receipts, seating plans, and broadcasting contracts. Subsequently, we traced the revenue amounts on the box office reports to Consumer Affairs' accounting records and found that the amounts agreed in all but one instance, which we describe in Chapter 1.

AUDIT OBJECTIVE	METHOD
<p>b. Identify the amount of money budgeted and spent for athletic inspectors' salaries and travel, as well as travel costs for commissioners, commission staff, and any other staff.</p>	<ul style="list-style-type: none"> • To determine the amount budgeted for travel, we reviewed Consumer Affairs' financial records. The commission budgeted nearly \$300,000 for fiscal year 2009–10 and roughly \$400,000 for fiscal years 2010–11 and 2011–12. • To determine the amount the commission spent on inspectors' travel, as well as travel costs for commissioners and other commission staff, we reviewed all of the travel expense claims processed by Consumer Affairs during fiscal years 2009–10 through 2011–12. We had to perform this analysis, as the commission does not maintain records of travel costs by position. To ensure our analysis was materially complete, we compared the total amounts we derived for travel to the totals reported in accounting records provided by Consumer Affairs and noted no material differences. • To determine the amount budgeted and spent on inspectors' wages, we used accounting records provided by Consumer Affairs.
<p>c. For a selection of travel expenditures, determine if they were allowable and reasonable. Additionally, identify any unusual trends in the type and costs of travel and the reasons for these trends.</p>	<p>Randomly selected 12 travel expense claims, and judgmentally selected another two due to the large claim amounts processed during fiscal years 2009–10 through 2011–12. Based on this review, we determined that the costs claimed were both allowable and reasonable. Further, we did not identify any unusual trends in the types and costs of travel for the claims we reviewed.</p>
<p>d. Determine whether the commission is using the most cost-effective method when providing inspectors at its events. At a minimum, perform the following:</p>	<p>Obtained available policies or procedures regarding the assigning of inspectors to events. Due to a lack of formalized policies and procedures, we interviewed key commission staff to identify the process used to assign inspectors to events.</p>
<p>(i) Determine whether the commission used inspectors employed by the State or used contracted inspectors more frequently. Using this information and any other relevant factors, determine which type of inspector is the most cost-effective to use at the events.</p>	<p>Based on our review of information provided by Consumer Affairs, we determined that inspectors used by the commission are intermittent state employees, some of which are employed by the State in another capacity. Thus, the commission does not use contracted inspectors to regulate events.</p>
<p>(ii) Determine whether and how often the commission used inspectors located elsewhere in the State, and therefore incurred travel costs, rather than using local inspectors that were available. Based on this information and any other relevant factors, determine if the commission incurred additional costs that could have been avoided.</p>	<ul style="list-style-type: none"> • Although the commission had a policy indicating that geography was to be an important factor in assigning inspectors, commission staff and the director of Consumer Affairs explained that the commission abandoned this policy in 2009 for unknown reasons. Thus, for purposes of our testing, we considered inspectors whose city of residence was within 50 miles of a scheduled event as "local." • To determine the frequency with which the commission assigned "local" inspectors to events, we randomly selected, from the system the commission uses to assign inspectors, a total of 58 events held in fiscal years 2010–11 and 2011–12. Using data in the system, we obtained the inspectors assigned to each event; however, as we describe in Chapter 1, this listing is incomplete as it relates to events and inspector assignments because it is not consistently updated. Nevertheless, the commission asserted it was the best source of data it could provide to conduct this type of analysis. We compared inspectors' city of residence, as the data were readily available from Consumer Affairs, to the city in which events were held to determine the frequency with which the commission assigned inspectors to events that were 50 miles or more away. We established our threshold of 50 miles in accordance with regulations that stipulate inspectors may apply for appropriate travel expenses if they have to travel more than 50 miles from their headquarters or home. • Because commission staff did not maintain records explaining the reasons they may have assigned a "nonlocal" inspector to an event, such as local inspectors either being unavailable or not having the necessary experience for a particular assignment, we could not assess whether the commission incurred additional costs that it could have avoided.

AUDIT OBJECTIVE	METHOD
<p>4 Review and assess the current financial condition of the pension fund and any projections related to its financial condition.</p>	<ul style="list-style-type: none"> • In conducting our interviews of key commission staff regarding the pension plan, we learned that the pension plan is generally overseen by a pension plan administrator, and its revenues are maintained in two accounts: the pension fund, which is a short-term state account, and the investment account, which is a long-term account overseen by a financial services company. We conducted interviews with and obtained necessary documentation from the pension plan administrator and the financial services company that oversees the investment account. • Using the pension plan's financial statements for fiscal years 2009–10 through 2011–12, we assessed the pension plan's condition. Also, we determined whether any pension payments were made during fiscal years 2002–03 through 2008–09, using accounting records provided by Consumer Affairs. • Evaluated the commission's expenditures related to administration of the pension plan to ensure that it limited these expenses to 20 percent of the previous two years of plan contributions, as state law requires. • Reviewed and assessed the commission's required report to the Legislature on the condition of the pension plan to determine whether it contained information meeting the applicable requirements. • To determine the proportion of eligible boxers' pension accounts that were distributed to boxers or their beneficiaries, we reviewed available records for 2009, 2010, and 2011 to determine the number of pension accounts that were distributed, and the number of boxers' pension accounts that were eligible for distribution. • To determine whether the commission effectively located eligible boxers or their beneficiaries, as required by law, we reviewed the commission's procedures and interviewed key commission staff. • To assess projections related to the pension plan's financial condition, we interviewed commission staff and the pension plan administrator. Based on these interviews, we learned that the commission has not developed projections for its pension plan. Under the plan, which is a defined contribution plan, no specific benefits are promised; rather, benefits depend on the size of an individual boxer's account. Thus, the need to project the plan's financial condition is not necessarily relevant. Further, as we describe in Chapter 2, the commission generally lacks information necessary for it to locate eligible boxers, or their beneficiaries, and until it obtains such information, any projections of the pensions plan's balances would not be complete.
<p>5 Based on the current and any projections on the financial condition of the pension fund, determine whether it is feasible to extend the pension plan to cover other athletes regulated by the commission.</p>	<p>State law required the commission to conduct an analysis of the pension fund and issue a recommendation to the Legislature by July of 2012 on whether the pension plan should be extended to cover other athletes licensed by the commission. However, as we explain in Chapter 2, the commission failed to complete this analysis. Further, because the commission has not systematically tracked the athletes it licenses, and box office information including ticket information, by event type, we concluded that a determination of whether the pension plan could be expanded was not feasible at this time.</p>
<p>6 Determine the extent to which the commission has implemented recommendations from the California State Auditor's report released in July 2005.</p>	<p>Based on interviews of key staff from the commission and the pension plan administrator, as well as our review of pertinent documentation, we assessed the commission's implementation of our prior report's recommendations. We document our assessment in the Appendix.</p>
<p>7 Review and assess the current financial condition of the neurological account. Additionally, determine the amount spent on administrative activities for this account during the most recent three-year period. For a selection of these expenditures, determine whether the respective activities were allowable and reasonable.</p>	<ul style="list-style-type: none"> • To determine the financial condition of the neurological account, we reviewed the governor's budgets for fiscal years 2011–12 through 2013–14, as well as accounting records provided by Consumer Affairs for fiscal years 2009–10 through 2011–12. Using accounting records provided by Consumer Affairs, we determined the amount it spent on administrative activities, which we present in Table 6 on page 47. We consulted our legal counsel and Consumer Affairs' budget office and determined that these types of administrative expenses are allowable. • To determine the purpose of the account, including activities that it can be used for, with the assistance of our legal counsel, we reviewed applicable state statutes and regulations.

AUDIT OBJECTIVE	METHOD
<p>8 For the most recent three-year period, determine whether the commission used policies and practices designed to detect and prevent conflicts of interest and whether the application of these policies and practices adequately addressed any conflicts that were identified.</p>	<ul style="list-style-type: none"> • Interviewed key staff from the commission and Consumer Affairs' filing officer who is responsible for collecting and reviewing statements of economic interests submitted by the commission. • Reviewed Consumer Affairs' conflict-of-interest code to identify those commissioners and commission staff who are required to file statements of economic interests. For the filing periods of 2009 through 2011, we obtained designated employees' statements to determine, when compared to those who were designated filers, whether their statements were in fact filed and complete.
<p>9 Review and assess any other issues that are significant to the commission and the pension fund.</p>	<ul style="list-style-type: none"> • To assess the commission's ability to address weaknesses in its administrative processes historically, we obtained and reviewed audit reports or reviews that Consumer Affairs conducted on the commission's operations since 2003. We interviewed key staff at Consumer Affairs and the commission to determine the commission's progress in addressing the recommendations made in those audits and reviews. • We interviewed executive staff from Consumer Affairs, including the director, deputy director, and deputy director of board relations, as well as commissioners, to determine the level of autonomy afforded to the commission and to evaluate whether that autonomy is appropriate given the commission's history of administrative and operational problems.

Source: California State Auditor's analysis of Joint Legislative Audit Committee audit request number 2012-117, planning documents, and analysis of information and documentation identified in the column titled *Method*.

Chapter 1

THE STATE ATHLETIC COMMISSION HAS PROVIDED INADEQUATE OVERSIGHT OF ITS FINANCIAL AND ADMINISTRATIVE OPERATIONS

Chapter Summary

The State Athletic Commission (commission) has struggled to operate effectively. Most recently, a lack of adequate management on the part of the former executive officer contributed to the commission's near insolvency. The former executive officer failed to implement budgetary and fiscal controls over the commission's revenues and expenditures. When the commission's fund balance became dangerously low in December 2011, he also failed to promptly inform the commissioners. As a result, the commission did not formally begin to take steps to address its financial instability until June 2012. At that point, the commission attempted to resolve its financial situation by developing a solvency plan outlining its cash flow situation and containing proposed efforts to reduce its costs.

Although the commission has taken steps to comply with this solvency plan, we question the plan's feasibility, because it lacks a balanced approach that could sustain the commission over the long term. The solvency plan includes austere cuts that appear to be unreasonable and too drastic, and it does not contain any strategies to increase revenue. Moreover, the commission seems ill-prepared to accurately estimate its costs and revenues because in the past it has consistently failed to adequately track key components of its operations, including the number of events that it regulated, the revenues and expenditures associated with those events, the number of inspectors assigned to each event, and the number of athletes that it licensed. Finally, deficiencies in the commission's processes for collecting, recording, and reporting revenues from events suggest that it lacks assurance that it has collected and accounted for all of the revenues it is due.

The Commission's Lack of Leadership Contributed to Its Near Insolvency

In the summer of 2012 the commission neared the brink of financial insolvency as a result of multiple factors, the most serious of which was a lack of leadership on the part of the former executive officer and his failure to adequately communicate with the commissioners

regarding the state of the budget. As shown in Table 2, fiscal year 2011–12 ended with the commission having a fund balance of \$23,000, or enough to cover just three days of operating costs.

Table 2
Ending Fund Balances for the State Athletic Commission Fund
Fiscal Years Ending June 30, 2010, Through June 30, 2013
(In Thousands)

	FISCAL YEAR END			
	JUNE 30, 2010	JUNE 30, 2011	JUNE 30, 2012	JUNE 30, 2013*
Beginning fund balance	\$948	\$888	\$416	\$23
Prior-year adjustments	(3)	(77)	50	
Adjusted beginning fund balance	945	811	466	
Revenues	1,755	1,758	1,387	1,381
Expenditures	1,812	2,153	1,830	1,195
Ending fund balance	\$888	\$416†	\$23	\$209

Sources: Governor's budgets for fiscal years 2011–12 through 2013–14.

Note: A fund balance is the amount of money in a fund that is available for expenditure, and in the governor's budget, three fund condition statements present the summary of the operations of a fund for the previous, current, and budget year.

* The amounts presented for the fiscal year ending June 30, 2013, are projected.

† In reconciling the fund balance as reported in the governor's budget for the year ending June 30, 2011, with data obtained from the State Controller's Office's Budgetary/Legal Basis system, we identified that the fund balance as reported in the governor's budget was overstated by \$2,000, an amount that we consider not material. Ultimately, as of June 30, 2012, the fund balance of \$23,000 per the Governor's Budget agreed with the State Controller's Office's Budgetary/Legal Basis system.

The former executive officer, who served from February 2010 to July 2012, failed in his duty to adequately manage the commission's budget. Although the executive officer is responsible for establishing fiscal controls to assure that budgeted expenditures do not exceed budgeted and forecasted revenues, the commission does not have any policies and procedures detailing how it should develop budgets, nor does it require the commissioners to provide any oversight of planned budgets. In fact, the former interim executive officer stated that the former executive officer generally developed budgets using an ad hoc approach—one that based revenue and workload projections on his own knowledge of the industry. As a result, the governor's budgets for fiscal years 2010–11 through 2013–14 suggest that the commission significantly overstated its revenue projections for the past three fiscal years. Its actual revenues were an average of \$503,000, or 23 percent, less than its projections. More importantly, the commission's expenditures for these fiscal years exceeded its revenues by an average of \$298,000 per year, or 19 percent.

In fiscal year 2011–12, the consistent discrepancy between the commission’s revenues and expenditures escalated into a crisis. In that year, the commission’s \$1.83 million in expenditures exceeded its actual revenues by \$443,000, or 32 percent. The commission’s financial problems reached this magnitude in part because the former executive officer failed to promptly and effectively inform the commissioners of the true nature of the fund condition. According to the director of Consumer Affairs (director), Consumer Affairs became aware of the commission’s fund condition in December 2011, when the former executive officer requested to move the commission’s headquarters to a more expensive building. At that time, a budget analyst within Consumer Affairs determined that the commission could not afford to move to a new building because it did not have sufficient funds. The budget analyst also stated that he began meeting with the former executive officer concerning the commission’s insufficient funds in December 2011. However, records from commission meetings in December 2011 and February 2012 indicate that the former executive officer only provided the commissioners with budget reports that compared actual expenditures to budgeted expenditures, not information pertaining to the actual fund condition, which would include revenues. The former executive officer did not inform the commissioners that it was close to spending beyond its revenue until April 2012.

When the former executive officer finally informed the commissioners that the commission’s expenditures were exceeding its revenues, they did not take immediate steps to address the crisis. Our review of meeting minutes suggests that the commissioners did not ask any questions about the implications of spending at a rate that would out-strip revenues or make any effort to resolve the situation. According to the commission’s chair and vice chair, their primary responsibility is setting policies to ensure the safety of athletes. They therefore defer operational and financial decisions to the executive officer. Although we agree that no legal or regulatory criteria mandate the commissioners’ duties related to the commission’s day-to-day administration, our legal counsel believes that the members have a general responsibility to oversee its financial solvency so that it may carry out its statutory duties. As a result, we would expect the commissioners to take a more active role in overseeing the commission’s financial condition, particularly given its current circumstances.

Instead, it appears that the commissioners did not fully realize the severity of the fund’s potential insolvency until the director sent a letter dated May 31, 2012, addressed to the former executive officer and copied to the commissioners. In the letter, she stated that the commission’s fund could become insolvent as early as June 2012.

When the former executive officer finally informed the commissioners that the commission’s expenditures were exceeding its revenues, they did not take immediate steps to address the crisis.

The chair of the commission later acknowledged that the commissioners had no idea that the budget was in such dire straits until they received this letter, suggesting that the commission's problems might have been mitigated had the former executive officer communicated more effectively with the commissioners.

In fact, once they received the letter, the commissioners took quick action. In June 2012 the commissioners publicly reprimanded the former executive officer and voted to remove his authority over the budget. They directed the former executive officer to begin working closely with Consumer Affairs to oversee the fiscal year 2012–13 budget. In July 2012 the commission completed a solvency plan outlining the commission's cash flow situation and its proposed solutions. We discuss the feasibility of this plan to adequately address the commission's long-term fiscal health later in this chapter. In July 2012 the former executive officer resigned amid criticism of his handling of the commission's financial condition, and in August 2012 the commissioners appointed the assistant executive officer as the interim executive officer. She served in that capacity until October 2012 and a new executive officer assumed the office in November 2012.

The current executive officer stated, and the chair confirmed, that he communicates with the commissioners on a daily basis to keep them informed about the commission's operations. Although we believe this is an effective strategy, the executive officer should work with the commissioners to ensure that the commission's policies clearly define the various parties' communication responsibilities so that the commission can avoid similar problems in the future.

Although the Commission Has Taken Steps to Remain Solvent, It Lacks a Long-Term Financial Plan to Ensure Future Financial Stability

The commission's July 2012 solvency plan details the steps the commission intends to take to maintain solvency through fiscal years 2012–13 and 2013–14. According to Consumer Affairs' director, the plan is a short-term effort to cut costs and control expenditures so that the commission can remain solvent and achieve its goal to establish a healthy reserve level in the commission's fund. In the short term, the solvency plan appears to have been successful in improving the commission's financial situation. Our review of its finances between July 2012 and December 2012 shows that the commission has generally reduced expenses and increased its reserve balance. Nevertheless, we are concerned that the plan contains steps that are not practical long-term solutions for addressing the commission's financial stability. In particular, the plan relies on the commission being able

We are concerned that the solvency plan contains steps that are not practical long-term solutions for addressing the commission's financial stability.

to dramatically reduce the number of inspectors it assigns to events, even though the executive officer believes these reductions may not be feasible. Although the executive officer is currently exploring other ways to cut costs as well as to increase revenue, many of his proposals are in the early stages of development. Regardless, the commission does not have a long-term financial plan that addresses the numerous concerns we identify in this report.

The Commission's Solvency Plan Is Unrealistic and May Not Prove Sustainable

The solvency plan outlines several drastic measures to decrease the commission's expenditures so they do not exceed its revenues. The commission projects that these measures will reduce its spending to \$1.2 million and \$1.125 million in fiscal years 2012-13 and 2013-14, respectively. Compared to the actual expenditures for fiscal years 2009-10 through 2011-12 that the commission reported in the governor's budgets, this would represent an average annual reduction of \$732,000, or 39 percent. This dramatic decrease may be unrealistic, particularly given that the commission's mission and responsibilities have remained unchanged and, according to the executive officer, the commission does not plan to decrease the number of events it regulates. We are concerned that the commission may choose to permanently reduce its annual budget to reflect the levels proposed in the solvency plan when such a reduction may not be sustainable over time.

On average, more than half of the savings identified in the solvency plan for fiscal years 2012-13 and 2013-14 result from cuts to inspectors' wages and travel expenses, and to travel by commissioners and commission staff. As shown in Table 3 on the following page, the commission spent an average of \$479,000 and \$169,000 per year on inspectors' wages and travel, respectively, during fiscal years 2009-10 through 2011-12. These expenditures represent roughly 34 percent of the commission's total expenditures, which averaged about \$1.93 million during the three-year period we reviewed. According to its plan, the commission proposes to reduce inspectors' wages to about \$147,000 per year and travel expenses to less than \$55,000 per year during fiscal years 2012-13 and 2013-14. Further, our review of travel expense claims showed that travel expenses for the commissioners and commission staff, including the executive officer and chief athletic inspector, averaged nearly \$51,000 per year during fiscal years 2009-10 through 2011-12. The plan indicates that the commission will cut travel expenses by \$33,000 for these positions, to \$18,000 annually.

This dramatic decrease—39 percent in planned spending—may be unrealistic, particularly given that the commission's mission and responsibilities have remained unchanged.

Table 3
Expenditures for Athletic Inspectors' Wages and Travel
Fiscal Years 2009–10 Through 2011–12

	FISCAL YEAR			AVERAGE
	2009–10	2010–11	2011–12	
Number of events held*	Unknown	188	173	181
Wages	\$559,000	\$413,000	\$464,000	\$479,000
Travel	208,000	153,000	145,000	169,000
Totals spent on inspectors	\$767,000	\$566,000	\$609,000	\$647,000
Totals for each event	Unknown	\$3,011	\$3,520	\$3,265

Sources: California State Auditor's analysis of inspectors' travel expense claims filed during fiscal years 2009–10 and 2011–12, financial records obtained from the Department of Consumer Affairs' (Consumer Affairs) office of human resources, and available event data provided by the State Athletic Commission (commission).

Note: This table does not include expenditures for the travel and wages of the chief athletic inspector or the assistant athletic inspector because these positions are salaried and their duties go above and beyond those of athletic inspectors.

* According to a special projects coordinator from Consumer Affairs, the former interim executive officer stated that the commission does not have reliable data for fiscal year 2009–10. Thus, the number of events that the commission regulated in this fiscal year is unknown. Further, as we describe on pages 28 to 29, the commission's data on the number of events for fiscal years 2010–11 and 2011–12 are unreliable; nevertheless, we present these data to provide some context and because the commission asserted that it was the most complete information it had available for the number of events and their revenue. However, we acknowledge that this analysis is limited by the lack of adequate and reliable event data.

The proposed cuts, particularly those for inspectors, may not be feasible for several reasons. As one of the primary means of achieving these savings, the commission plans to reduce the number of inspectors it assigns to each event. Before it implemented the solvency plan, the commission indicated that it assigned between six to 12 inspectors to each event, depending on its size and complexity, and the executive officer stated that it occasionally assigned more than 12 inspectors to very large events. As shown in Table 3, based on available data, we calculated that the commission spent an average of nearly \$3,300 for all inspectors' wages and travel for each event it regulated in fiscal years 2010–11 and 2011–12. The executive officer commented that the commission was not operating in a realistic environment in the past and that it probably assigned more inspectors than necessary to certain events, which increased the average cost per event. The solvency plan calls for the commission to assign only three to five inspectors per event and states that this proposed staffing level will reduce inspectors' wages and travel to an average of \$1,040 per event.² However, the executive officer stated that this estimate is low and indicated that he believes \$1,300 may be a more realistic figure.

² According to the former interim executive officer, the data used to derive this estimate came from spreadsheets developed by the former executive officer to assist in determining an average cost per event.

In fact, he emphasized that a minimum of five inspectors per event is necessary and noted that he would never run an event with just three inspectors.

We also have several concerns about the quality and reliability of the solvency plan's estimated cost of \$1,040 per event for inspectors' wages and travel, particularly since it uses this estimate to forecast expenditures under the plan. Briefly, the commission derived the \$1,040 estimate by summing inspectors' wages and travel it asserts it incurred for June, and estimated it would incur in July and August 2012, and then dividing the total by the number of events regulated or projected it would regulate in those months. Of concern, and contrary to the current executive officer's statements that he would never run an event with just three inspectors, is that for the months of July and August, the commission appears to have primarily based its estimates on the costs associated with assigning just three inspectors to an event. It then used this estimate to place limits on inspectors' wages and travel costs going forward. However, we question the feasibility of basing such significant projections on just three months of data, which largely assume assigning just three inspectors to an event, and forecasting its expenditures on this estimate. For instance, in November 2012, the commission exceeded its budget for inspectors' wages by nearly \$4,000, or 43 percent, and exceeded its total travel budget by \$3,400, or 78 percent.

We believe a more informed projection would include data covering a longer time period, such as a year, and would take into consideration the size and type of events it anticipates regulating during that time, the number of necessary inspector assignments based on the anticipated event size and complexity, and the travel costs per inspector, since these costs can fluctuate greatly depending on the proximity of the inspector's residence to the event. Additionally, an estimate would also need to take into consideration two recent actions. First, a legal opinion received by Consumer Affairs in August 2012 stating that the commission cannot pay overtime to inspectors who have a primary job with the State in a different capacity and that inspectors' travel time to and from events is likely not compensable. Second, the executive officer made a decision to assign inspectors based primarily on the proximity of their residence to an event. As we describe later in this chapter, the commission has historically failed to track the number of inspectors it assigns to events, the costs incurred by inspectors regulating events, and how these costs differ based on event size. Without considering all of this information, we do not believe the commission can derive a reasonable and meaningful estimate of the cost to regulate events.

We have several concerns about the quality and reliability of the solvency plan's estimated cost of \$1,040 per event for inspectors' wages and travel.

Furthermore, the solvency plan effectively prevents the commission from increasing the size of its staff, which is potentially unrealistic given that it has struggled to adequately perform its functions with its current staffing level. As shown in Figure 1 in the Introduction, as of February 2013 the commission employed 65 part-time inspectors and five full-time staff, including an executive officer, a chief inspector, a staff services analyst, and two office technicians to support the inspectors' regulatory efforts and carry out the day-to-day administration of the commission. This is five fewer full-time employees than are authorized for the commission in fiscal year 2012–13 and, according to Consumer Affairs' office of human services, three fewer full-time employees than it employed during fiscal year 2011–12. The plan requires the commission to maintain this current staffing level rather than filling any of its five vacant full-time positions. Further, the plan reduces all funding for temporary positions to zero. In fact, the savings related to the cuts in personnel, including staff benefits and temporary positions, make up nearly 29 percent of the solvency plan's total average annual reduction. However, in a previous audit, Consumer Affairs identified a shortage of staff as a potential source of the commission's deficiencies. Because of the many issues we identify in this report, we believe that the commission's current staffing level places it at significant risk of failing to effectively address its problems. According to the executive officer, the commission has not conducted a workload analysis to determine the optimal level of staffing it needs to adequately perform its operational functions, but he believes that six staff should be sufficient. Until it conducts a staffing analysis, we question whether the commission can effectively operate with just five full-time staff.

The solvency plan eliminates funding for training inspectors on how to properly regulate events, even though state law requires that inspectors receive training within six months of an event that they are scheduled to work.

Finally, the solvency plan eliminates funding for training inspectors on how to properly regulate events, even though state law requires that inspectors receive training within six months of an event that they are scheduled to work. According to the solvency plan, the commission intends to eliminate funding for training inspectors for at least a two-year period, encompassing fiscal years 2012–13 and 2013–14. The executive officer stated that having no allowance in the plan for training inspectors is not realistic, particularly since the training is mandated by state law. As we describe in Chapter 2, due to the executive officer's concerns about the commission's lack of compliance with state law, he recently offered trainings to inspectors in the southern and central region of the State as well as the northern region. According to the executive officer, he was able to pay for these trainings by delaying filling a vacant office technician position by a few months. Unless the commission can eliminate other costs from its already austere budget or identify more cost-effective strategies to provide the required trainings in the future, it may have to exceed the plan's spending limits to comply with state law regarding training for inspectors.

The Executive Officer Has Taken Some Steps to Improve the Commission's Long-Term Financial Situation

The executive officer stated that because of his concerns about the reasonableness of the solvency plan, he recently began working with Consumer Affairs' budget office to develop new expenditure projections—primarily for inspectors' wages and the commission's travel costs—while attempting to remain within the plan's \$1.2 million expenditure limit for this fiscal year. For example, while the solvency plan limited the commission's travel costs and inspectors' wages to about \$220,000 annually, the executive officer has increased this figure to nearly \$262,000. Like the plan, the executive officer has as one of his primary goals a significant decrease in the amount of wages the commission pays to inspectors. However, while the plan proposes that the commission achieve these cost savings solely by reducing the number of inspectors assigned to each event, the executive officer's approach is more comprehensive and thus potentially more sustainable.

One area in which the executive officer plans to make improvements involves the inspectors' wage structure. The commission appears to pay its inspectors at a higher rate than the wages paid by certain other states. Specifically, Consumer Affairs' records show that during fiscal years 2009–10 through 2011–12, the commission paid its inspectors hourly wages ranging from about \$21 to \$27 per hour, based on inspectors' experience and merit, regardless of whether they were lead or non-lead inspectors. Assuming inspectors without lead responsibilities work eight hours per event, we estimated they therefore earned between \$168 and \$216 per event. By comparison, a survey conducted by the commission of other states' compensation practices in December 2012 revealed that 13 of 16 other states pay their inspectors, excluding lead and chief athletic inspectors, a flat wage rate for each event ranging from \$40 to \$190.

To address this disparity, the commission agreed in December 2012 to pursue a process whereby it discontinues paying its inspectors on an hourly basis and begins paying them a flat rate for each event they regulate. The executive officer estimated that this change will allow the commission to assign six inspectors per event and still save approximately \$445 per event. However, Consumer Affairs' personnel officer stated that, because any changes to the classification or pay structure will require action by the control agencies, including the State Personnel Board and/or the California Department of Human Resources, it is unlikely that the change will go into effect this fiscal year. Until the commission implements the change and has analyzed the results, it cannot be certain of the savings it will produce.

Compared to certain other states, the commission appears to pay its inspectors, including those with lead responsibilities, generously.

According to the executive officer, he has also begun to focus on strategies to reduce travel costs for inspectors. Although the solvency plan also identifies this as a goal, it does not provide any guidance on how to accomplish it, other than reducing the number of inspectors it assigns to regulate events. Currently, depending on the distance to a work assignment, inspectors and commission staff may be entitled to mileage, lodging, meals, and incidental expenses related to attending commission-regulated events, trainings, or meetings. As shown in Table 4, the commission spent a total of nearly \$203,000 for travel during fiscal year 2011–12. Inspectors accounted for the majority of these travel expenses, followed by the executive officer. The executive officer attributes the high travel costs to assigning too many inspectors to each event and to the geographical size of the State. He explained that he is therefore working with Consumer Affairs to recruit new inspectors in the population centers where most events occur.

Table 4
State Athletic Commission’s Travel Expenses by Position
Fiscal Years 2009–10 Through 2011–12

POSITION	FISCAL YEAR			AVERAGE
	2009–10	2010–11	2011–12	
Athletic inspectors	\$208,000	\$153,000	\$145,000	\$168,667
Chief and assistant chief athletic inspector	1,800	12,800	13,500	9,400
Executive officer	16,000	24,700	17,000	19,200
Assistant executive officer	10,500	1,300	11,000	7,600
Commissioners	2,000	5,600	12,000	6,500
State Athletic Commission (commission) staff	13,400	6,500	3,700	7,900
Other*	300	1,100	600	700
Totals	\$252,000	\$205,000	\$202,800	\$219,900

Sources: California State Auditor’s analysis of the commission’s travel expense claims filed in fiscal years 2009–10 through 2011–12 and accounting records provided by the Department of Consumer Affairs (Consumer Affairs).

* Includes expenses incurred by referees, training, Consumer Affairs’ legal office, and positions neither Consumer Affairs nor the commission could identify.

To evaluate whether the commission could have reduced inspectors’ travel expenses in fiscal years 2010–11 and 2011–12 by assigning inspectors based on their proximity to events, we determined how often it assigned nonlocal rather than local inspectors to events. We differentiated between local and nonlocal inspectors based on whether the city they lived in was within 50 miles of the event to which they were assigned. While inspectors are not eligible to be paid for travel time, in accordance with regulations, they may apply for appropriate travel expenses, including mileage, meals, and lodging, if they have to travel more than 50 miles. Our review of 58 randomly

selected events held in fiscal years 2010–11 and 2011–12, based on records we obtained from the system the commission uses to assign inspectors, found that the commission assigned nonlocal inspectors an average of nearly 50 percent of the time. The executive officer believes that the commission has not historically considered where inspectors live as a main factor in its decisions to assign them to events. Consumer Affairs stated that although the commission had a policy, the commission abandoned the policy in 2009 for unknown reasons. The executive officer has now resumed the practice of selecting inspectors based on their proximity to events and believes that the commission's travel costs will decrease as a result. However, the commission needs to reinstitute a formal policy to ensure that it consistently factors in location when assigning inspectors to events in the future.

In addition, the executive officer has recently implemented new policies related to his own travel and the travel of the chief inspector. As shown in Table 4, the former executive officer's travel expenses totaled \$17,000 during fiscal year 2011–12. This represented more than 8 percent of the commission's total travel expenditures for that fiscal year. The chief inspector stated that the executive officer's presence may be necessary at certain events because his or her duties include promoting public relations and assisting with event regulation. However, to contain costs, the executive officer approved a standard operating procedure in January 2013 stating that the commission will not assign the chief inspector and the executive officer to the same event unless one also works as a lead inspector or an appointed commissioner has requested that they both be present.

Another deficiency of the solvency plan is that it does not include any strategies for increasing revenues, which we believe is critical to ensuring the commission's ability to maintain financial stability while also meeting its mission. Despite the importance of increasing revenues, it appears the commission did not begin to evaluate approaches for doing so until after it hired the executive officer in November 2012. The executive officer indicated that he is working to develop such strategies, but that many of them are in the early stages. Further, he explained that the commission has yet to conduct any analyses to evaluate whether these strategies will be effective. According to the executive officer, he is considering the following potential strategies for increasing revenues, among others:

- Regulating amateur mixed martial arts events. The executive officer believes this could be a significant source of revenue for the commission, since it does not presently regulate any amateur mixed martial arts events in the State (a nonprofit organization performs this function).

The executive officer believes that the commission has not historically considered where inspectors live as a main factor in its decisions to assign them to events.

- Charging athletes a small administrative fee to process and make federal identification cards. The executive officer stated that he is working with Consumer Affairs' legal counsel to determine whether this is legally permissible.
- Charging promoters an administrative processing fee. The executive officer believes that the commission will need to acquire the legislative authority to charge this fee.

Despite the solvency plan's flaws, the commission appears to generally be moving toward meeting the financial goals outlined within the plan, in part because the executive officer has found additional ways to control costs, as we already discussed. Using the commission's actual revenues and expenditures for July 2012 through December 2012 and its projected revenues and expenditures for the remainder of the fiscal year, Consumer Affairs currently projects that the commission should be able to stay within the expenditure limit called for in the plan and end the fiscal year with nearly a \$300,000 reserve. However, if the commission continues to exceed its planned expenditures in some areas—such as spending more on wages and travel for inspectors than budgeted—it will have to find other ways to cut expenditures, which may not be possible, given the drastic cuts it has already made.

Because the plan includes severe cuts and lacks a comprehensive approach to ensuring the commission's financial stability, we are concerned that it will not prove an adequate long-term solution.

Because the plan includes severe cuts and lacks a comprehensive approach to ensuring the commission's financial stability, we are concerned that it will not prove an adequate long-term solution. In fact, both Consumer Affairs' director and the executive officer for the commission agreed that the plan is not sustainable. A reasonable long-term financial plan would likely need to eliminate or adjust some of the solvency plan's expenditure cuts and incorporate additional revenue strategies. Moreover, a long-term financial plan would need to ensure that the commission is able to meet its primary responsibilities to protect athletes and properly regulate events. Finally, a long-term financial plan would require the commission to thoroughly track its revenues and expenditures per event over a reasonable period of time—a year, for instance—in order for it to develop reliable expenditure and revenue projections by event type and size.

Without Adequate Tracking Systems, the Commission Cannot Effectively Carry Out Its Responsibilities

The commission's financial and overall operational instability is undoubtedly related to its failure to adequately track information that is critical to planning its operations and carrying out its responsibilities. Specifically, until recently, the commission made little effort to track the number of events that it regulated, the revenues and expenditures associated with those events, the number of inspectors it assigned to each event, or the number of athletes that

it licensed. The commission's failure to track such basic information leads us to question whether it has ever operated efficiently or effectively.

The commission does not maintain a centralized listing of the events that it regulates. Instead, commission staff maintain three separate listings of events—including two independent Excel files and a report from an online program called ArbiterSports. However, none of the listings of events reconcile to one another. For example, according to ArbiterSports, in fiscal years 2010–11 and 2011–12, the commission regulated 207 and 217 events, respectively; however, an Excel file based on box office information indicates that the commission regulated 188 and 173 events in those respective fiscal years, a significant difference. The executive officer stated that this was probably because ArbiterSports contains many events that were canceled. He believes the information from ArbiterSports is not reliable because the commission did not regularly update it. Because we were unable to reconcile the information contained in the three listings to one another, we could not reliably determine the total number of events the commission regulated in a particular fiscal year. The commission's failure to accurately track the events it regulates in a centralized system precludes it from conducting year-to-year analyses of the number of events it has regulated and using those analyses to inform its budgets and financial plans. Additionally, using three separate means of tracking events—all of which are manually populated—can compound errors, is duplicative, and is an inefficient use of staff time.

Even more troubling is that the commission did not begin to consistently track the revenues and expenditures associated with each event that it regulates until January 2013, raising doubts as to how it could ever have developed reliable budgets. Without accurately tracking such basic information, the commission was at a decided disadvantage in trying to assess how the events it regulated affected its financial condition, which may have contributed to its expenditures exceeding its revenues.

For example, had the commission performed an analysis of the revenues and expenditures related to each event it regulates, it would have found that many of the events cost more to regulate than they generated in revenue. In fact, we determined that over the two-year period from fiscal years 2010–11 to 2011–12, 272 of the 361 events that the commission's records indicate that it regulated may have cost nearly \$420,000 more than they collectively generated in revenue.³ We arrived at this conclusion by summing the

The commission did not begin to consistently track the revenues and expenditures associated with each event that it regulates until January 2013, raising doubts as to how it could ever have developed reliable budgets.

³ In our calculation, we excluded revenues that are deposited into the Neurological Examination Account and the Boxers' Pension Fund, since these amounts are designated for specific purposes and generally cannot be used for costs associated with the commission's day-to-day administration, including the regulation of events.

wages and salaries for athletic inspectors for the two fiscal years and determined that the average cost to regulate each event was nearly \$3,300. Because the size of the event affects the cost to regulate it—the commission assigns more inspectors to large events than to small ones—our average event cost of nearly \$3,300 may understate the cost for large events and overstate the cost for small events.

Without a reliable listing of events and an accurate accounting of their associated revenues and expenditures, the commission cannot determine whether regulating certain events may cause it to fail to generate its projected revenues. According to the executive officer, small events that generate \$1,000 or less in revenue could represent a financial loss to the commission; however, he noted that regulating small events is a key piece of the commission's responsibilities, particularly given that they help foster the development of emerging athletes. While we acknowledge the importance of regulating small events, it is imperative that the commission take steps to ensure that it brings in adequate revenues to meet its budget because of the repercussions if it does not.

Our review of the commission's operations found that it also did not consistently and systematically track how many inspectors it assigned to specific events prior to January 2013. Given that athletic inspectors account for a significant portion of its expenditures, we expected the commission to centrally maintain a list of which inspectors it assigned to particular events so that it could develop informed budgets, track its expenditures, and adjust its budgets as necessary. For instance, the commission could use the number of inspectors it assigned to an event and its costs for the event to accurately determine how much it spent on each inspector's wages and travel. According to a commission office technician, ArbiterSports is the commission's most accurate centralized system for tracking inspectors' assignments. However, the commission never used the program for this purpose. The former interim executive officer said that, due to her short tenure at the commission, she was unable to tell us why the commission did not track inspector assignments.

Because the commission did not begin to centrally track the number and types of licenses it issues until recently, it could not be certain of the number of athletes that are licensed or due for renewals, or the exact amount of revenue it has collected.

Finally, because the commission did not begin to consistently track the number and types of licenses it issues until recently, it could not be certain of the number of athletes that are licensed, the number that are due for renewals, or the exact amount of revenue it has collected in licensing fees. As a result, it may not have been able to accurately project this portion of its revenue, despite the fact that license and renewal fees for athletes, officials, and promoters accounted for about 15 percent of its total revenue in fiscal year 2011–12. In addition, because it lacks an accurate listing of licensed athletes, it may have charged athletes for licensing fees that were not due. In particular, according to the chief inspector,

the approach the commission used to verify that an athlete had the required license at the time we conducted our fieldwork was for commission staff to manually locate the licenses in the commission's file room. If staff were unable to locate an athlete's license, the commission required him or her to pay a \$60 licensing fee. This approach is not only archaic and inefficient but may also be unfair to athletes if the license was misplaced and no fee was actually due. In December 2012, after we brought this issue to the executive officer's attention, he directed his staff to begin to track athletes' licenses in a spreadsheet and acquired three laptops for inspectors to use at events for licensure verification. However, the commission still needs to formalize this tracking process to ensure that it consistently updates and maintains athletes' licensure status.

Consumer Affairs is in the process of creating a new online program that will enable the commission to track licenses and license renewals beginning in late 2014. According to the chief of Consumer Affairs' enterprise project services section, the commission will also be able to use the new online program to track the number of events, the inspectors assigned to each event, and event revenues and expenditures. According to the executive officer, in December 2012 commission staff began to input licensing information into a spreadsheet that is compatible with the online program that Consumer Affairs is developing, allowing for the data to be easily imported once the new program is completed.

The executive officer also noted that until the commission implements the new online program, he is concerned about the adequacy of the systems he currently has at his disposal. If he had the resources, he would like to upgrade to an off-the-shelf software package that could meet the commission's needs to track data related to events and to athletes' licensing. However, if the commission determines that this is not possible due to the lack of resources, we believe it should make use of its current systems to track the information necessary to appropriately administer its operations.

The Commission Lacks Assurance That It Has Collected All of the Revenue It Is Due

The commission's revenues are generally derived from taxes, assessments, and fees collected from the events it regulates, as described in the text box on the following page. However, because the commission has inconsistently adhered to its regulations and processes, it cannot ensure that it has correctly calculated and collected ticket assessments and other sources of revenue. Moreover, it has violated state regulations by failing to ensure that it separates the duties of the staff who process revenue.

The executive officer also noted that until the commission implements the new online program, he is concerned about the adequacy of the systems he currently has at his disposal.

Taxes, Assessments, and Fees Collected by the State Athletic Commission From the Events It Regulates

Gate tax: 5 percent of the net receipts,* or a \$1,000 minimum for professional events and a \$500 minimum for amateur events.

Broadcast tax: 5 percent tax on the total value of the broadcasting contract, up to a maximum of \$25,000 per event.

Neurological assessment (applies only to professional events): The State Athletic Commission (commission) collected 60 cents on every ticket sold, including complimentary tickets that came through the door, until February 6, 2012, at which time the commission reduced the assessment to 1 cent.

Pension assessment (applies only to professional boxing events): The promoter contributes 88 cents for every ticket, excluding working complimentary tickets, up to a maximum contribution of \$4,600 per event.

Complimentary ticket fee: If the number of complimentary tickets issued exceeds 33 percent of the total number of spectators at events, state law requires a \$1 fee on each ticket above the threshold.

Licensing and other fees: The commission collects a fee from various parties, including athletes† and officials, for every license it issues or renews. It also collects other fees, such as a penalty fee if an athlete does not meet his or her weight requirement.

Sources: Business and Profession Code, Section 18600, et seq., and interviews with commission staff.

* Total gross receipts less the pension and neurological assessments.

† Typically, athletes will pay these fees; however, at times, promoters will pay on the athletes' behalf.

As a result, it cannot be certain that it has collected all the revenue that it is due. In fact, our review of 12 event files found that the commission failed to perform one or more critical functions related to every event, which may have resulted in approximately \$4,600 in lost revenue.

To determine correct revenue amounts, the commission requires promoters to submit key information about the events they hold within a specified time frame. Specifically, the commission requires promoters to submit statements showing the number of tickets issued or sold, the value of those tickets, and the amount of gross receipts (box office information), as well as a seating plan and a ticket inventory—referred to as a ticket order receipt—to support the box office information. The inspectors rely on the box office information to calculate the amount of taxes, assessments, and fees that they then record in the box office report to determine the amount promoters must pay the commission.

However, according to the executive officer, the commission did not properly train inspectors about the regulations in the past, and therefore they lacked awareness of the documentation required to support the box office reports. Further, he stated that former commission management did not make it a priority to enforce these requirements. As a result, he explained that inspectors did not generally obtain documentation supporting the box office information and at times did not perform the required calculations of event revenue on information in the box office reports. The chief inspector also explained that calculating box office reports is the least important of the inspectors' duties.

Not surprisingly given these circumstances, we noted a number of instances in which inspectors either failed to perform necessary calculations entirely or performed them incorrectly, often resulting in a loss of revenue. For instance, state law requires the commission to collect a fee for any complimentary tickets redeemed that exceed 33 percent of the total number of spectators at an event.⁴ To meet this requirement, inspectors are to calculate if the number

⁴ According to the commission's regulations, a complimentary ticket is a priced ticket for which the promoter does not charge the ticketholder.

of spectators admitted to an event using complimentary tickets exceeded the 33 percent threshold. However, for one of the 12 files we reviewed, the inspectors did not perform a complimentary ticket fee calculation even though the promoter issued complimentary tickets. Moreover, since the commission did not obtain information on the total number of spectators attending this event, neither we nor the commission can determine the appropriate fee the commission should have collected. We also noted one instance in which an inspector performed the complimentary ticket fee calculation incorrectly and collected \$263 less than he or she should have, and another instance in which an inspector collected a complimentary ticket fee when he or she should not have.

In another example, we discovered computational errors and inconsistencies in inspectors' calculations of the neurological assessment. We found that at two events held in April and May 2011, inspectors assessed promoters \$1,800 less than they should have because they incorrectly calculated the amounts due.

We also found one instance in which deficiencies in the commission's revenue processing may have resulted in roughly \$2,500 in lost revenue. Specifically, the box office report and supporting documentation for an April 2011 event indicated that the commission collected more than \$52,200 in revenue, which included approximately \$2,500 for licensing fees. However, the commission failed to report any revenue from licensing fees to Consumer Affairs for this event. As a result, neither we nor the commission can guarantee that the commission received and deposited all the revenue it was due.

Further, in several cases we could not determine if the commission collected the correct amount of revenue because commission staff did not obtain or retain the critical information necessary, such as a ticket order receipt or seating plan, to corroborate the box office information that promoters reported. For instance, an event's ticket order receipt contains the total number of tickets available and their corresponding value, and a seating plan establishes the event price categories and seating capacity. However, according to the chief inspector, the commission did not begin requiring promoters to submit seating plans and ticket order receipts until January 2013. As a result, of the 12 files we reviewed, we noted that ticket order receipts were missing from six files and seating plans were missing from 10, as shown in Table 5 on the following page. In one of these examples, for an event held in September 2011, the file did not contain any ticket information at all, such as the number of tickets sold or gross receipts, even though the commission collected more than \$1,200 in revenue from the promoter. Given that promoters would financially benefit from not fully or accurately disclosing all ticket sale information, it is imperative that the commission collects documentation to support box office reports.

Of the 12 files we reviewed, we noted that ticket order receipts were missing from six files and seating plans were missing from 10.

Table 5
Documentation and Information Missing From the 12 Event Files
We Reviewed

DATE OF EVENT	MISSING DOCUMENTATION REQUIRED TO SUPPORT BOX OFFICE REPORT			INFORMATION NOT INCLUDED ON BOX OFFICE REPORT
	SEATING PLAN	TICKET ORDER RECEIPT	BROADCAST CONTRACT	TICKET SALES AND GROSS RECEIPTS
July 17, 2010	●	●	✓	
October 15, 2010	●	●	✓	
December 11, 2010	✓	✓	×	
April 9, 2011	✓		✓	
May 21, 2011	✓	✓	✓	
May 24, 2011	✓	✓	×	
July 16, 2011	✓		✓	
September 2, 2011	✓	✓	×	✓
November 19, 2011	✓		✓	
December 1, 2011	✓	✓	✓	
March 10, 2012	✓	✓	×	
May 19, 2012	✓		✓	
Total exceptions	10	6	8	1

Source: California State Auditor's review of the State Athletic Commission's (commission) files pertaining to 12 judgmentally selected events held during fiscal years 2010–11 and 2011–12.

● = The commission collected a flat fee for this event; therefore, a seating chart and ticket inventory were not required to determine the correct amount of taxes, assessments, and fees.

✓ = The document or information was missing from the event file.

× = The event was not broadcast; thus, the contract is not applicable.

Similarly, the commission did not collect or retain copies of the broadcast contract for any of the eight events we reviewed where such contracts were applicable. Broadcast contracts are required to state the amount promoters receive for selling, leasing, or transferring the broadcasting and television rights to radio stations or television networks. Because state law requires the commission to collect 5 percent of the total value of any such broadcast contracts, the commission must obtain copies to ensure that it collects the appropriate amounts. Without the contracts, neither we nor the commission have assurance that it collected the correct amount of revenue. According to the executive officer, the main reason we did not find any of these contracts is that promoters frequently refuse to provide them to the commission, claiming that they contain trade secrets. State law currently allows the commission to collect up to a maximum of \$25,000 from promoters. Given that these contracts could be for significant amounts, the existing maximum fee may fall far short of reflecting 5 percent of current broadcast contracts. According to the deputy director of Consumer Affairs' legal department, the commission,

with Consumer Affairs' assistance, could seek legislation requiring promoters to submit broadcast contracts and imposing penalties on promoters who refuse to provide the contracts. We believe that such action would serve the commission well as, once it obtains the contracts from promoters, it could determine whether the \$25,000 fee on broadcast contracts is adequate or needs to be increased.

The commission's failure to obtain necessary box office documents appears to be, in part, the result of a lack of formal guidance provided to promoters concerning this issue. According to the chief inspector, aside from a checklist provided to promoters upon their initial licensure, commission staff communicate with promoters primarily on a case-by-case basis—the commission does not provide promoters any standard written guidance or instructions concerning specific box office requirements. By not ensuring that it is consistent in making promoters aware of their responsibility to remit supporting documentation, the commission is failing to follow good business practices and increasing the odds that it will not receive all the information needed to verify that the amount of event revenue it receives is correct.

In addition, the commission violated its own regulations by failing to approve specific ticket printers that would enable it to receive third-party verification of the inventory of all tickets promoters receive. The commission's regulations require promoters to issue tickets only from commission-approved printers. If the commission authorized specific printers and then required promoters to follow its regulations, it could use the ticket order receipt from the ticket printers to ensure that the ticket information the promoters reported was accurate. However, when we asked about this, the chief inspector stated that the commission did not maintain a list of approved ticket printers and that he was not aware of the commission ever approving any ticket printers.

As a result of these various problems, the commission cannot verify that promoters have provided it with accurate information and that it has collected all the revenue it is due. For instance, when reviewing event files, we found a box office report for a mixed martial arts event indicating that the promoter sold only 10 tickets at a venue that, according to the chief inspector, typically holds several hundred spectators. The chief inspector believes that it is highly unlikely that the promoter sold only 10 tickets for this event, particularly since it would mean that the promoter would have sustained a significant loss. However, he was not aware of this particular box office report at the time the promoter submitted it, and thus he could not explain the apparent discrepancy. We were unable to confirm the actual number of tickets sold at this event because of the commission's lack of a ticket order receipt from an approved printer. In instances such as this—when the information reported by the promoter appears

As a result of various problems, the commission cannot verify that promoters have provided it with accurate information and that it has collected all the revenue it is due.

The commission is violating its own regulations by not assessing fees for the Boxers' Pension Fund correctly.

to be unsatisfactory—state law allows the commission to conduct a thorough review of the promoter's records for the purpose of verifying the revenue due to it. However, the commission did not perform any review of this nature in this instance. In fact, the executive officer does not believe that the commission has ever exercised this authority; however, he plans to use this authority in the future as necessary to verify box office information.

The commission is also violating its own regulations by not assessing fees for the Boxers' Pension Fund (pension assessment) correctly. Specifically, its regulations require the commission to assess 88 cents on every boxing ticket, excluding working complimentary tickets,⁵ up to a maximum of \$4,600 per event. Therefore, in accordance with our legal counsel's advice, we determined that for the purposes of calculating the pension assessment, the commission is seemingly required to count all tickets sold and all complimentary tickets given away, except for working complimentary tickets. For a professional boxing event we reviewed, held in December 2011, at which a pension assessment should have been calculated, inspectors counted only the tickets sold and the complimentary tickets that were redeemed. When we asked the chief inspector about this discrepancy, he explained that inspectors use only the number of complimentary tickets redeemed, rather than the total complimentary tickets issued. Thus, the commission failed to adhere to its regulations and did not collect all the pension assessments due. The executive officer believes the fee should be assessed only on complimentary tickets redeemed and stated that he will seek changes to the regulations.

Finally, until we brought this issue to its attention in November 2012, the commission lacked effective internal controls to ensure that staff properly deposit and track revenue. For example, the commission had only one staff member responsible for receiving checks, endorsing the checks, and reporting revenue to Consumer Affairs. According to the *State Administrative Manual*, a key element in a system of internal control is the separation of duties so that one individual cannot perpetuate and conceal errors and irregularities. As a result, the *State Administrative Manual* stipulates that no single staff member receives, deposits, and records revenue. Because the commission's policies and procedures did not adequately separate these duties among its staff and did not require its staff to reconcile the revenues received to the box office reports, the commission cannot know whether it appropriately collected and deposited all revenues it was due. Moreover, the combination of the commission's lack of internal controls and its failure to ensure that staff followed established policies and procedures created an environment in which fraud could easily have occurred and remained undetected.

⁵ Working complimentary tickets refer to tickets issued to event employees, members of the press, and commission staff.

When informed of the results of our audit, the executive officer promptly acted to resolve some of the issues we noted. Specifically, to strengthen the commission's internal controls, he stated that he assigned an additional staff person to accept and endorse checks received from promoters before forwarding them to another staff person to complete the remaining steps in processing the revenue. Further, in December 2012, the commission adopted policies and procedures detailing its office staff's responsibilities for collecting, reporting, and depositing event revenues. The new policies and procedures require that staff track revenues received from events and reconcile these amounts to the box office reports.

The executive officer agreed that the commission has not been proactive in holding promoters accountable for providing complete and accurate box office information and indicated that he has begun to establish policies to ensure that promoters, inspectors, and staff are aware of their responsibilities concerning box office information. In fact, until we brought this issue to the executive officer's attention in December 2012, the commission never required promoters to certify that the information they provided was complete or accurate. He stated that he is therefore working to develop formal policies and procedures to inform promoters of this responsibility. In addition, in December 2012, the commission began providing promoters with a comprehensive checklist of the information and documents they need to submit to the commission. The executive officer stated that office staff can also use this checklist to track the receipt of pertinent event information from inspectors and promoters and to ensure that the event files contain all the necessary documentation. According to the executive officer, the commission also provides this checklist to inspectors to remind them of the documentation they must collect at each event and the lead inspector is required to certify the accuracy of the checklist before submitting the required documentation to the commission after each event.

Until we brought this issue to the executive officer's attention in December 2012, the commission never required promoters to certify that the information they provided was complete or accurate.

The Commission and Consumer Affairs Could Better Ensure That Commissioners and Other Designated Employees Comply With Conflict-of-Interest Requirements

Consumer Affairs and the commission need to strengthen their procedures to ensure that designated employees adhere to conflict-of-interest requirements. The Political Reform Act of 1974 (political reform act) states that within 30 days of assuming or leaving office, certain specified state and local officials and employees must file with their designated filing officer statements of economic interests that identify their financial interests. The political reform act also requires that every agency adopt a conflict-of-interest code that specifies any additional individuals

whom the agency believes should also file statements of economic interests because they hold positions of authority. The commission follows Consumer Affairs' conflict-of-interest code, which requires that commissioners and certain commission employees, such as the executive officer, assistant executive officer, and chief inspector, file statements of economic interests. Consumer Affairs' filing officer tracks, collects, and reviews the commission's statements of economic interests.

When reviewing these statements for the filing periods covering 2009 through 2011, we found that the commission failed to communicate with Consumer Affairs' filing officer and, as a result, three commissioners did not submit their statements of economic interests upon assuming or leaving office. When we asked Consumer Affairs' filing officer about these three commissioners, he was unaware that one of them had left the commission and was therefore required to submit a statement. He also indicated that Consumer Affairs never received the other two statements of economic interests, which were required upon assuming office. Consumer Affairs' filing officer explained that he relies on commission staff to inform him when a designated officer or employee assumes or leaves office. Thus, communication between the commission and Consumer Affairs is essential to ensure that all required officers and employees disclose potential conflicts of interest.

Consumer Affairs failed to identify five incomplete statements of economic interests, even though state law requires the filing officer to ensure completeness.

Consumer Affairs also needs to improve its practices related to reviewing statements of economic interests. Specifically, Consumer Affairs failed to identify five incomplete statements, even though state law requires the filing officer to ensure completeness. In particular, in three of the four statements he submitted, the former executive officer failed to complete the portion of his statement that indicates whether he had any financial interests. The filing officer told us that Consumer Affairs has no formal policies or procedures that require him to ensure completeness of the statements; however, his practice is to review them. Moreover, we found evidence suggesting that the filing officer also failed to detect certain abnormalities in one of the statements. Specifically, the chief inspector's name was spelled wrong on one of his statements, and the handwriting differed from a previous statement. Thus, his statement of economic interest appears to have been filled out by another person.

Recommendations

To increase transparency and to ensure that commissioners provide a sufficient level of oversight over the commission's operations and budget process, the executive officer should work with the

commissioners to establish written policies and procedures that delineate the executive officer's responsibilities related to communicating with the commissioners.

To ensure its future financial stability, the commission should work with Consumer Affairs to establish a long-term financial plan that contains the following:

- A reasonable annual budget with an accurate forecast of planned expenditures. The commission should determine this budget based in part on its ability or inability to meet the expenditure limitations stipulated in the solvency plan.
- The number of inspectors necessary to regulate each type of event. In establishing this number, the commission should take into account the varying size and complexity of the events. It should also determine the cost for each inspector to regulate an event.
- An estimate of its costs to regulate different types of events. To arrive at a reasonable estimate, the commission will need to track at least six months of actual expenditures.
- The number of staff necessary to perform all of the commission's necessary functions. The commission will need to conduct a workload analysis as soon as possible to determine how many staff it requires and adjust its planned expenditures accordingly.
- Funds for athletic inspectors' training that are sufficient to meet the requirement that inspectors receive training within six months of an event that they are scheduled to work.
- Strategies to increase revenue. The commission may need to conduct analyses to determine whether the opportunities it is currently considering are legally permissible and fiscally prudent. If so, the commission should take steps to implement those strategies, including seeking any necessary legislative changes.

The commission should establish a formal policy to ensure that it assigns inspectors to events based primarily on their proximity to the events.

To ensure that it adequately tracks critical information related to its basic functions and mission, the commission should do the following:

- Develop and implement procedures and written guidelines to ensure that it consistently tracks information related to all events and their associated revenues and expenditures. These guidelines should also ensure that it tracks the inspectors it assigns to events and the athletes it licenses.

- Once it has developed a reliable listing of the events it regulates, conduct an analysis to determine the manner in which events affect its financial condition. For example, the commission could compile the expenditures related to each event, including inspectors' wages and travel, and compare its expenditures to the revenue it received. Although the commission may need to regulate small events to ensure that it meets its responsibilities, it should still consider the cost of doing so in order to ensure that it stays within its spending authority.
- Ensure that its system for tracking the number of events, the inspectors it assigns to events, and its revenues and expenditures is compatible with the online program Consumer Affairs is developing so that it may easily import this information into the new program when it is complete.
- Work with Consumer Affairs to ensure that the new online program will meet its needs and requirements. Once the program is in place, the commission should use it as its central means for tracking its operations.

To ensure that it accurately collects revenue, the commission should do the following:

- Formalize policies and procedures directing inspectors to take the necessary steps to make sure they correctly and consistently calculate taxes, assessments, and fees in accordance with state law and regulations.
- Calculate the pension assessment by counting all the complimentary tickets issued, except for working complimentary tickets, not merely the complimentary tickets that are redeemed. If the commission does not agree that it should calculate the pension assessment by counting all the complimentary tickets issued, it should seek a change in its regulations to calculate the fee based only on the number of complimentary tickets redeemed.
- Seek legislation, with the assistance of Consumer Affairs, that requires promoters to submit their broadcast contracts and authorizes the commission to impose penalties on those promoters who refuse to submit these contracts. Once the commission has received a sufficient number of broadcast contracts, it needs to conduct an analysis to determine whether the maximum fee of \$25,000 on broadcast contracts is appropriate in light of the amounts of the contracts or whether the fee structure should be increased through a change in state law.

- Continue its efforts to ensure that promoters, inspectors, and staff are aware of their responsibilities related to the accurate reporting of box office information and the submission of key documents that substantiate the reported information.
- Take steps to ensure that promoters adhere to its new process of certifying in writing that the information they provide is complete and accurate.
- Adhere to its regulations by establishing a process for approving ticket printers and maintain a list of those it has approved.

To correct the deficiencies in its processing of revenue, the commission should continue to ensure the appropriate separation of duties. In addition, the commission should continue to require staff to track revenues received from events and reconcile those amounts to the events' box office reports.

To ensure that designated employees and officers disclose potential conflicts of interest on their statements of economic interests as the law requires, the commission should notify Consumer Affairs' filing officer promptly when these employees or officers assume or leave office.

To ensure that all designated parties complete statements of economic interests as the law requires, Consumer Affairs should improve its policies and procedures to ensure that it identifies any incomplete statements and promptly notifies the Fair Political Practices Commission when necessary.

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Chapter 2

THE STATE ATHLETIC COMMISSION HAS NOT CONSISTENTLY ENFORCED ALL REQUIREMENTS INTENDED TO PROTECT ATHLETES, AND ITS POOR ADMINISTRATION CALL ITS FUTURE INTO QUESTION

Chapter Summary

Because the State Athletic Commission (commission) has not consistently followed state law and its own policies and procedures for regulating events, it lacks assurance that it has adequately protected the health, safety, and welfare of athletes. For example, in violation of state law, the commission has at times failed to maintain supporting documentation demonstrating that as part of its regulation of events it ensured the safety of athletes' equipment and gear and that an athlete had received a required medical examination. Moreover, it has not consistently provided the inspectors who regulate events with the amount of training that the law requires, nor had it until recently, established processes for tracking inspectors' training status and for maintaining training records. Without such processes, the commission cannot be sure that inspectors have the necessary knowledge to properly regulate events.

In addition, the commission has not appropriately administered two accounts for which it is responsible. Specifically, it has not used its Neurological Examination Account (neurological account) to pay for athletes' neurological exams since at least 1998, despite the fact that this was the Legislature's stated purpose for establishing the account. Instead, the commission has used the neurological account primarily to pay for the administrative costs associated with it. In addition, the commission has not administered the Boxers' Pension Plan (pension plan) effectively because it lacks policies and procedures to ensure that all eligible boxers—or their beneficiaries—receive the benefits to which they are entitled under law. As a result of these deficiencies, only a small percentage of eligible boxers' pension accounts have been distributed, and the commission has not maximized the revenue available to boxers.

Other audits and reviews during the past 10 years have repeatedly brought to the commission's attention many of the same administrative deficiencies detailed in this report. Because the commission has historically had difficulty correcting these issues, we question whether it will now be able to adequately resolve them within a reasonable amount of time, particularly since many of the factors that contributed to the commission's inability to address deficiencies in the past remain unchanged. In April 2013, as part of

a sunset review process, the Legislature plans to determine whether the commission should be continued. The current executive officer, who began working at the commission in November 2012, has made noteworthy strides in addressing several of the issues we discuss in this report. However, if the commission is unable to correct its most significant deficiencies within a reasonable time frame, we believe the Legislature should consider transferring the commission's duties to the Department of Consumer Affairs (Consumer Affairs).

The Commission Could Not Demonstrate That It Performed All Required Procedures When Regulating Events

As discussed in the Introduction, the commission relies on inspectors to provide administrative and regulatory oversight at events to protect the health and safety of athletes. However, we could not find documentation demonstrating that inspectors had consistently performed their mandated responsibilities prior to and during events. In fact, not until December 2012 did the commission begin to hold inspectors accountable for maintaining and submitting key documentation demonstrating that they had performed the necessary procedures in compliance with applicable laws and regulations. Specifically, our review of 12 event files found that the files were disorganized and often missing information pertinent to the regulation of the events.

Numerous event files we reviewed did not contain evidence of the inspectors' compliance with state law that requires the commission to ensure the safety of the ring or cage and the athletes' equipment and gear.

For example, numerous event files we reviewed did not contain evidence of the inspectors' compliance with state law that requires the commission to ensure the safety of the ring or cage and the athletes' equipment and gear. Inspectors must verify that the ring or cage meets various requirements, including that the ring has adequate padding and that platforms are no more than 4 feet above the floor of the building. Similarly, athletes' gear must also meet certain specifications, generally related to the gloves' weight, padding, and size. The commission has developed checklists for inspectors to use to document their reviews of the ring or cage and the athletes' gear; however, the ring or cage checklist was missing from six of the 12 event files we reviewed, and the equipment and gear checklist was missing from nine. Lacking this documentation, the commission does not have assurance that the ring or cage and the athletes' gear met applicable requirements.

In addition, lead inspectors are responsible for ensuring that physicians perform preflight physical examinations and certify in writing that athletes are fit to safely compete before each event. However, one of the 12 event files we reviewed did not include the necessary documentation demonstrating that an athlete had received a preflight physical.

Furthermore, we found one instance in which an inspector did not adequately demonstrate that he ensured that a promoter paid athletes appropriately. Specifically, the commission requires inspectors to verify that athletes receive payments in accordance with their contracts. To do so, inspectors collect all payments from the promoter, ensure that the payments include the appropriate amounts as stipulated by the athletes' contracts, and ensure payments are distributed to the athletes at the end of each event. The commission's inspector duty statement requires inspectors to record the payment amount they make to each athlete and to obtain each athlete's signature on a document referred to as the payoff sheet. However, one of the 12 event files we reviewed was missing a complete payoff sheet for all of the athletes.

When we informed the executive officer of the issues we found, he took some steps to address them. In December 2012 he established a comprehensive documentation checklist for inspectors to complete, which commission staff can refer to when tracking whether they have received pertinent event information from inspectors. He asserted that commission staff will use the checklist to ensure that inspectors complete and submit all official event documentation, including documentation pertaining to the safety of athletes. In addition, effective December 2012, the commission began requiring inspectors to certify their checklists after each event. The commission's recent actions seem reasonable and, if followed, will likely correct the deficiencies.

The Commission Has Not Complied With State-Mandated Training Requirements for Athletic Inspectors

Although state law requires that all inspectors receive training within six months of an event at which they are scheduled to work, the commission could not adequately demonstrate that it adhered to this requirement until recently. As a result, the commission cannot be sure that its inspectors are properly and safely regulating events. The scant documentation the commission could provide indicated that the commission offered a training to some inspectors in December 2011 and to a small group of lead inspectors in March 2012, which available training materials suggest focused on procedures for regulating events and administrative protocols. The chief inspector stated that, in the past, the commission offered training twice a year; however, recent efforts to cut costs have resulted in fewer trainings. In fact, as discussed in Chapter 1, the commission's solvency plan eliminated funding for inspector training altogether. If implemented, this provision would end the commission's ability to meet the State's training requirement.

The commission could not adequately demonstrate the number of trainings it had provided, how many and which inspectors attended the trainings, or whether the training included all of the duties inspectors are required to perform at events.

However, recognizing that training is required by state law, the executive officer has recently provided training to some inspectors. In total, 45 of the commission's 65 inspectors attended two trainings. Specifically, in December 2012, he provided a training course for 30 inspectors located in Southern and Central California. He also provided a second training course in January 2013 for 15 inspectors located in Northern California.

Moreover, until the executive officer assumed his position, the commission did not have a process for tracking inspectors' training status and did not maintain adequate records to ensure that the trainings it provided addressed the many requirements of inspectors related to the regulation of events. In fact, the commission had only one file related to trainings, and this file did not contain pertinent documentation such as inspector attendance lists or agendas for each of the trainings the commission had held. As a result, the commission could not adequately demonstrate the number of trainings it had provided, how many and which inspectors attended the trainings, or whether the training included all of the duties inspectors are required to perform at events. Without a process to track when and which inspectors attend trainings and materials to demonstrate that the content of trainings is sufficient, the commission cannot be sure that inspectors are receiving the information they need to properly regulate events.

The current executive officer stated that he is attempting to address many of these problems. Specifically, he indicated that he has begun to track inspectors' attendance at trainings and will use only inspectors who have received training within the past six months to regulate events. He also stated that he is exploring ways of conducting trainings that would be more cost-effective for the commission without sacrificing quality, such as offering online courses. Finally, he is working to improve the content of the trainings. Specifically, his most recent training agendas included not just procedures for regulating events and administrative protocols, but also procedures for calculating and collecting revenues. Based on available documentation, we determined that previous trainings apparently did not cover this topic, which is a significant concern given the commission's consistent problems in collecting all the revenue it is due, as discussed in Chapter 1. Despite these improvements, until the commission begins to regularly offer training to all of its inspectors within six months of an event at which they are scheduled to work, it will continue to violate state law and will not be able to ensure that its inspectors properly regulate events.

The Commission Has Not Paid for Athletes’ Neurological Examinations as State Law Requires

State law requires that professional athletes applying to either receive or renew their licenses must generally undergo a neurological examination or a neuropsychological examination, a brain-imaging scan, and an electrocardiogram. The law requires athletes to receive these examinations in order to detect physical conditions that could place them at risk for serious injury. Before each event, the commission’s athletic inspectors review the status of the athletes and request documentation to show that they have received recent medical examinations. The Legislature established the neurological account on January 1, 1986, with the intended purpose of paying for these neurological examinations, which could represent a considerable cost to athletes. As described in Chapter 1, after each event athletic inspectors calculate the neurological assessment due on each ticket sold, including complimentary tickets redeemed, and then notify event promoters of the total amount due. Once promoters submit payment to the commission, it deposits the funds into the neurological account. As shown in Table 6, in fiscal year 2011–12, the commission deposited about \$79,000 into the neurological account, which had a balance of \$712,000 as of June 30, 2012.

Table 6
State Athletic Commission Neurological Examination Account
Fiscal Years Ending June 30, 2010, Through June 30, 2012
(In Thousands)

	FISCAL YEAR END		
	JUNE 30, 2010	JUNE 30, 2011	JUNE 30, 2012
Beginning balance	\$521	\$616	\$701
Prior-year adjustments	(9)	(0)	(2)
Adjusted beginning balance	512	616	699
Revenues	158	145	79
Expenditures	54	60	66
Salaries and benefits	39	42	49
Pro rata/Indirect distribution costs	15	18	17
Ending balances	\$616	\$701	\$712

Sources: Governor’s budgets for fiscal years 2011–12 through 2013–14, and accounting records provided by the Department of Consumer Affairs.

Note: Revenues decreased by nearly half between June 30, 2011, and June 30, 2012, which is likely due to the commissioners deciding, in February 2012, to decrease the neurological assessment per ticket sold from 60 cents to 1 cent.

The commission's failure to use the neurological assessments as intended violates state law.

However, according to the governor's budgets for the past 14 fiscal years, the commission has not used the neurological account to pay for examinations since at least 1998. In fact, the only expenditures the commission has made from the neurological account have been for state operations, such as indirect distribution costs—funds Consumer Affairs collects to provide support for various administrative services—and, according to Consumer Affairs' budget office, the salary and benefits for half of a full-time position. According to the operating procedures the commission developed in December 2012, this staff person is responsible for verifying the accuracy of all calculations that inspectors make at events, including the neurological assessment calculation.

According to the executive officer, athletes currently either pay for their neurological examinations themselves or negotiate with their promoters to make those payments on their behalf. The commission's executive officer also stated that he is not aware of any other state that has a neurological account; he believes that other states place the responsibility of paying for neurological examinations on the athletes. Nevertheless, the commission's failure to use the neurological assessments as intended violates state law.

The commission has chosen not to use the neurological account to pay for the neurological examinations as state law requires because it believes the fund cannot support the cost of providing the examinations to all athletes who require them. It based this determination on an analysis it conducted in 2012, which concluded that the commission would need to charge an assessment fee of \$2.70 per ticket in order to pay for the examinations, rather than the 60 cents per ticket it was charging at the time. According to the commission's former interim executive officer, a large increase in the ticket assessment would face strong opposition from promoters. As a result, in February 2012, the commissioners voted instead to decrease the assessment from 60 cents per ticket to the current rate of 1 cent per ticket until it could make a determination on the future use of the neurological account.

However, we question the reliability of the analysis the commission used to reach this decision. In particular, the analysis does not outline the amounts and sources the commission used to calculate that it would need to charge \$2.70 per ticket to pay for the required examinations. Moreover, when conducting the analysis, the commission interpreted the law as requiring it to use the neurological account to pay for all medical examinations required for the licensure process, including physical and eye examinations. According to our legal counsel, however, the law requires the commission only to pay for neurological examinations. Finally, as we described earlier in Chapter 1, the commission has not consistently tracked the number of athletes

it licenses or the number of events it regulates, and it lacks assurance that box office information pertaining to ticket sales is accurate. Without this information, it is unclear to us how the commission could accurately determine the necessary assessment fee, since the fee is dependent upon both the number of athletes requiring examinations and the number of ticket assessments the commission collects.

Moreover, by not adopting formal regulations to determine its calculation of the ticket assessment fee, the commission has failed to lawfully administer the neurological account. Although state law authorizes the commission to set the rate and manner of the neurological assessment, according to our legal counsel, state administrative law requires that these commission actions be adopted in a regulatory process that includes accepting comments from interested parties regarding the proposed regulations and holding public hearings if requested. However, according to the former interim executive officer, the commission has not established its process for determining the calculation by adopting regulations. Rather, according to its staff services analyst, the commission currently calculates the neurological assessment based on an unwritten methodology that it adopted internally. According to the executive officer, he is in the process of developing new regulations that would clarify the commission's calculation of the ticket assessment fee. By not adopting the methodology in regulations, the commission has created underground regulations; bypassed public transparency; and has precluded interested parties, such as event promoters, from providing input on the regulations that affect them.

Instead of using the neurological account to pay for athletes' examinations, the commission is currently exploring the possibility of using the funds to pay for the development of a medical database. The commission believes the potential benefits of a medical database outweigh the benefits of paying for neurological examinations. Specifically, the commission stated that the database could allow for greater protection of the health and safety of athletes by tracking injuries, assisting in determining when athletes are safe to return to competition after sustaining injuries, identifying medical trends, and identifying individuals who may be at greater risk of injury.

However, the commission may violate state law if it uses funds from the neurological account to pay for a medical database. According to our legal counsel, the law clearly states that the commission may use the account only to pay for the examinations or costs related to the examinations. To address this issue, members at the commissioners' February 2012 meeting voted to pursue legislation that would remove the commission's responsibility to collect assessments

Instead of using the neurological account to pay for athletes' examinations, the commission is currently exploring the possibility of using the funds to pay for the development of a medical database, which may violate state law.

and pay for examinations and instead would allow it to use the existing funds and assessment authority to create and administer a medical database. Until the Legislature makes such a change, using the neurological account to pay for a medical database would be contrary to the requirements of the law.

As another option, the executive officer is considering exploring the possibility of using the funds to pay for any neurological examinations that athletes require beyond their initial examinations. For example, when an athlete suffers a severe knockout, the commission often requires additional tests to rule out trauma, such as a magnetic resonance imaging scan or neurological impact test. According to the executive officer, California has more medical regulations for athletes than most other states, including a more extensive neurological examination, implying that neurological examinations for athlete licensure may be more expensive in California than in other states. He further stated that he believes that covering initial neurological examinations for all athletes would be prohibitively expensive, but that using the account to cover the costs of athletes' other, less frequent neurological examinations might still meet the intent of the law. Ultimately, the executive officer stated that he will support the commissioners' decision regarding the future use of the neurological account. However, the commission needs to ensure that any change complies with the intent of the law.

The Commission Has Not Effectively Administered Its Pension Plan

As discussed in the Introduction, the Legislature authorized the creation of the pension plan in 1985 to provide a small amount of financial security for professional boxers. State law, and the commission's subsequent regulations, gave the commission control of all funds in the Boxers' Pension Fund (pension fund), requiring it to assess 88 cents on every boxing ticket, excluding working complimentary tickets, deposit those revenues into the pension fund, invest the revenue it receives, and locate boxers who are eligible for benefits. However, the commission has failed to meet its responsibilities for administering and disbursing this fund.

According to a commission staff services analyst, the commission lacks a process for locating current and future eligible boxers or their beneficiaries in order to disburse pension benefits.

According to a commission staff services analyst, the commission lacks a process for locating current and future eligible boxers or their beneficiaries in order to disburse pension benefits. Rather, the analyst explained that most boxers learn about their eligibility through word of mouth and then contact the commission. According to the analyst, the commission has found locating boxers difficult because of the transient nature of their work and because many retire young and thus do not become eligible for pension benefits until many years after they have stopped competing.

As a result, a significant number of currently eligible boxers or their beneficiaries are not receiving pension benefits, and those who will become eligible in the future may not receive benefits either. For example, according to Consumer Affairs' available accounting records, the commission did not distribute any retirement benefits from boxers' pension accounts from at least fiscal years 2002–03 through 2008–09. The former interim executive officer was not aware that the commission had made no distributions during this period and could not provide an explanation of why it had failed for so many years to meet the fund's stated purpose. Based on the pension plan administrator's accounting records, we determined that the commission paid out a total of about \$695,000 from 46 boxers' pension accounts from 2009 through 2011, as Table 7 shows.⁶ However, these accounts represent only a small percentage—about 14 percent—of the more than 330 boxers' pension accounts eligible for distribution.

Table 7
Distributions From Eligible Boxers' Pension Accounts
2009 Through 2011

YEAR	NUMBER OF ELIGIBLE BOXERS' PENSION ACCOUNTS	NUMBER OF ELIGIBLE BOXERS' PENSION ACCOUNTS DISTRIBUTED	PROPORTION OF ELIGIBLE BOXERS' PENSION ACCOUNTS DISTRIBUTED	TOTAL PENSION BENEFITS DISTRIBUTED	TOTAL PENSION BENEFITS OUTSTANDING AND DUE AS OF THE END OF THE CALENDAR YEAR
2009	114	16	14%	\$242,496	\$1,244,816
2010	109	17	16	233,986	1,255,969
2011	115	13	11	218,768	1,479,561
Totals	338	46	14%	\$695,250	\$3,980,346

Sources: Documentation and unaudited financial records provided by the pension plan administrator.

Part of the reason the commission has struggled to locate eligible boxers is that until recently it failed to require boxers to sign a waiver of privacy rights, as its regulations require. Had the boxers signed such waivers, the commission would have been better able to locate their current addresses to ensure that they received their pension benefits. In addition, because the commission often lacks current mailing addresses for boxers, it generally cannot distribute annual pension statements to them, even though the pension plan administrator told us that the statements are available for all boxers with account activity. The commission's failure to ensure that boxers receive such statements is of particular concern, given that we recommended in an audit more than seven years ago that the

⁶ The pension plan administrator records payouts on a calendar-year basis rather than on a fiscal-year basis.

commission mail these statements to all vested boxers to increase the likelihood that it would be able to locate them after they reach retirement age.

When we brought this issue to the commission's attention, staff developed an alternative process that appears to serve the same purpose as the waiver of privacy rights. According to the commission's staff services analyst, in December 2012 the commission began asking boxers to complete a Professional Boxers' Pension Plan Enrollment Form at each event. This form contains personal identifiable information, including a Social Security number and a current mailing address. If the commission follows this process, it should be able to more easily locate boxers and their beneficiaries in the future. However, although commission staff plan to track these enrollment forms in an enrollment log, the commission has yet to formalize this process. If the commission does not formalize and follow its new process, it is likely to continue to struggle to locate boxers in the future.

Additionally, the commission has recently taken action to increase eligible boxers' awareness of their unclaimed pension benefits. In particular, in December 2012, the commission issued a press release in an attempt to inform vested boxers or their beneficiaries of the boxers' unclaimed benefits. According to the special projects coordinator, the commission distributed this press release to more than 50 boxing reporters nationwide and nearly 300 reporters in California. It describes the history of the pension plan and the qualifications boxers must meet to become eligible for payment under the plan. The commission has also discussed other ways to increase outreach to eligible boxers with Consumer Affairs' office of public affairs, such as disseminating additional press releases that inform boxers of their unclaimed benefits and highlighting stories of boxers who have received their pension payments. Although we commend the commission's efforts, it is imperative that it monitor whether these efforts increase the number of boxers submitting claims to determine whether it should modify its outreach approach.

In addition to administrative issues, the commission has failed to maximize the money available to fund boxers' pension benefits.

In addition to these administrative issues, the commission has failed to maximize the money available to fund boxers' pension benefits. The commission maintains revenue collected for the pension plan in two accounts. One of the accounts—from which the commission makes pension fund payouts to boxers—is state-administered and generally has a lower rate of return. The other is an investment account that a private financial services company manages that has a higher rate of return than the state account. The financial services company's records show that the value of the investment account grew by nearly 5 percent annually between its inception date in October 2007 and June 2011, due to appreciation in the value of the investments and interest earnings. By comparison, the state

account earned an average of 2 percent over the same period. Table 8 displays the financial condition of the pension fund for fiscal years 2009–10 through 2011–12 and of the investment account for 2009 through 2011.

Table 8
Boxers’ Pension Fund and Investment Account
 (In Thousands)

	BOXERS’ PENSION FUND (PENSION FUND)			INVESTMENT ACCOUNT		
	2009–10	2010–11	2011–12	2009	2010	2011
Beginning balance	\$438	\$236	\$13	\$4,198	\$4,798	\$5,243
Prior-year adjustment	17	(63)	13	–	–	–
Adjusted beginning balance	455	173	26	–	–	–
Pension assessments	97	92	90	–	–	–
Investment income	2	1	1	186	155	172
Transfers from investment account	–	–	500*	–	–	–
Deposits from pension fund	–	–	–	0	0	0
Change in value	–	–	–	431	309	41
Total revenues	\$99	\$93	\$591	\$617	\$464	\$213
Disbursements to boxers	259	176	321	–	–	–
Withdrawals	–	–	–	0	0	500*
State operations	59	77	79	–	–	–
Investment expenses	–	–	–	17	19	20
Total expenditures	\$318	\$253	\$400	\$17	\$19	\$520
Ending balances	\$236	\$13	\$217	\$4,798	\$5,243	\$4,936

Sources: Department of Consumer Affairs’ analysis of the fund condition for the pension fund and the investment account manager’s unaudited year-end statements.

Note: The money for the pension fund is kept in an account maintained by the State, and the money in the investment account is invested by an outside investment manager. The figures in the investment account are presented in calendar-year format. The pension fund figures are presented in fiscal-year format.

* The State Athletic Commission withdrew \$500,000 from the investment account and deposited it into the pension fund. According to the former interim executive officer, the commission made this transfer to ensure that it had funds readily available to pay additional boxers’ claims it anticipated receiving due to the change in the retirement age from 55 to 50 in 2009.

Despite the higher earnings of the investment account, the commission has continuously failed to transfer into it the money that it collected for boxers’ pension benefits, instead leaving this money in the state account. When we asked the former interim executive officer why the commission failed to transfer funds into the investment account, she stated that she could not provide an answer due to her brief tenure at the commission. However, the reason may be that the commission lacks policies and procedures that describe staff members’ roles and responsibilities in administering the pension plan. We estimate that the commission’s failure to deposit funds into the investment account may have

resulted in a loss of about \$20,000 in potential earnings between fiscal years 2007–08 and 2010–11, thereby decreasing the funds available to pay eligible boxers or their beneficiaries.⁷

The commission has also failed to administer the pension plan in a cost-effective manner. State law limits administrative expenditures to 20 percent of the average annual contributions made to the plan in the previous two years, excluding investment income. As shown in Table 9, the commission spent about \$86,000, \$81,000, and \$89,000, respectively, on administrative expenses over the last three calendar years, or between 83 percent and 95 percent of its average annual contributions for the previous two calendar years. This is far more than the legally allowable 20 percent. When we asked the former interim executive officer about these excessive administrative costs, she stated that she was unsure but that she had heard the commission could not find a company to administer the pension plan within the 20 percent limit. She was also unaware for most of her tenure that the law established a limit on administrative expenditures and confirmed that as far as she knew the commission had never taken steps to control the fund’s administrative costs. By spending so much on the fund’s administration, the commission has less available to pay the pension benefits of eligible boxers.

Table 9
Amounts by Which Administrative Costs for the Boxers’ Pension Plan Exceeded the 20 Percent Limit
2009 Through 2011

YEAR	AVERAGE ANNUAL CONTRIBUTION OVER THE PREVIOUS TWO YEARS	ACTUAL ADMINISTRATIVE COST PAYMENTS*	ACTUAL PERCENTAGE OF CONTRIBUTIONS COMPARED TO ADMINISTRATIVE COSTS	ADMINISTRATIVE COSTS IF THE COMMISSION MET THE 20 PERCENT LIMIT	AMOUNT ADMINISTRATIVE COSTS EXCEEDED THE 20 PERCENT LIMIT
2009	\$90,100	\$85,700	95%	\$18,000	\$67,700
2010	97,500	80,700	83%	19,500	61,200
2011	104,300	89,400	86%	20,900	68,500

Source: California State Auditor’s analysis of unaudited income statements provided by the pension plan administrator.

Note: According to state law, the administrative costs associated with investing, managing, and distributing the Boxers’ Pension Fund (pension fund) are limited to no more than 20 percent of the average annual contribution made to the pension fund in the previous two years, not including any investment income.

* Amounts primarily include State Athletic Commission staff salaries, plan administration fees, and investment fund management fees.

The commission also inappropriately used funds intended for other purposes to pay for administrative costs associated with the pension plan. In 2010 and 2011, the commission paid \$40,000 in

⁷ Our analysis covered the time period beginning in October 2007 and continuing through fiscal year 2010–11. We began our analysis in October 2007 because the financial services company began administering the account at that time. We excluded fiscal year 2011–12 from our analysis because the commission made a one-time \$500,000 transfer from the investment account to the state account in August 2011. According to the former interim executive officer, this transfer was made by the commission in anticipation of receiving additional boxers’ claims for benefits due to the change in the retirement age from 55 to 50 in 2009.

plan administration fees—included in the administrative costs listed in Table 9—out of the athletic commission fund, which the commission uses to pay its operating expenses. The pension plan administrator stated that the commission chose to do this because of the 20 percent legal restriction on administrative fees. She believed that the fees for the financial services company put the commission close to its 20 percent limit, and as a result, the commission started paying the pension plan administrator's fees from the commission's operating budget. According to our legal counsel, the commission should not pay plan administration fees from its athletic commission fund, as the Legislature intended the pension fund to cover the administration of the pension plan.

Finally, the commission failed to comply with a state law that required it to analyze and issue a recommendation on the feasibility of expanding the pension plan to cover all commission-licensed athletes, such as athletes competing in mixed martial arts. State law required the commission to submit a report by July 2012 that included a recommendation on whether the pension fund should be continued and, if so, whether it should be expanded. Our review of the report indicated that although the commission submitted the report on time, it failed to include any recommendation on continuing or expanding the pension plan. The former interim executive officer indicated that the commission had not conducted the analysis necessary to address the requirement because she did not believe that it was a priority for management. However, she explained that the commission believes it would not be feasible to extend the plan to cover other athletes, because it would require the commission to raise ticket assessments dramatically—on all types of events—potentially deterring promoters from holding events in the State. The current executive officer agreed with this assertion, stating that various promoters have expressed to him that raising the ticket assessment for the pension plan would have adverse financial consequences for promoters throughout the State. He added that California has some of the highest regulatory fees in the country and that adding more fees could stifle the growth of the industry, negatively affecting the commission's revenue.

Despite these opinions, the commission cannot know the true financial impact of expanding the pension plan until it conducts an appropriate analysis. However, we believe that conducting such an analysis may currently be impractical. As discussed in Chapter 1, the commission lacked, until recently, a system for tracking the number of athletes it licenses or the number of events it regulates. We also discussed in Chapter 1 that the commission lacks assurance that box office information pertaining to the number of tickets sold and complimentary tickets issued and redeemed is accurate. For instance, using information on ticket sales and complimentary tickets for past events, the commission could project the amount

The commission failed to comply with a state law that required it to analyze and issue a recommendation on the feasibility of expanding the pension plan to cover all commission-licensed athletes, such as athletes competing in mixed martial arts.

of revenue each event—such as mixed martial arts that can have high spectator attendance—could generate for the pension plan. Without knowing how many athletes it has licensed, and without having reliable box office information, we question how the commission could conduct a meaningful analysis of the feasibility of expanding the pension plan. Additionally, without this information, we cannot determine whether it is feasible to expand the pension fund to all licensed athletes. Therefore, until the commission successfully implements a database to track information critical to its operations, it will not be able to present the Legislature with a meaningful recommendation regarding the pension fund's expansion.

The Legislature Should Consider the Future of the Commission if It Fails to Address Its Deficiencies Within a Reasonable Time Frame

The commission's ongoing administrative struggles call its future into question. Because it has repeatedly failed to take corrective action on many findings identified in past audits and reviews, we question whether it will be able to adequately resolve the issues we have identified in this report within a reasonable amount of time. For instance, Consumer Affairs conducted several audits or reviews of the commission since 2003 that identified numerous findings. Of these, several involve recurring issues that the commission has failed to address, and the majority relate to findings we identify in this report, including the following:

- In 2003—nearly 10 years ago—Consumer Affairs found that the commission did not collect all available revenues, appropriately account for complimentary tickets, calculate the pension assessment properly, or maintain key documents in the event files.
- In 2008 Consumer Affairs conducted an audit of the commission's cash-receipt cycle and determined that the commission lacked an adequate computer system, used inefficient manual processes, and did not adhere to separation-of-duties requirements for cash handling.

We find it deeply concerning that these issues remain uncorrected so many years after Consumer Affairs identified them as problematic.

Moreover, the commission has failed to implement several recommendations that we reported nearly eight years ago. In July 2005 we issued a report titled *State Athletic Commission: The Current Boxers' Pension Plan Benefits Only a Few and Is Poorly Administered*, Report 2004-134. In the report we concluded that the commission had many problems with its day-to-day administration

of the pension plan, and we made nine recommendations to resolve those issues. During this audit we followed up on those recommendations and found that the commission had fully implemented only three recommendations, had partially implemented four, and has taken no action on the remaining two. We present the status of the commission's implementation of our prior report's recommendations in the Appendix.

A variety of factors appear to have contributed to the commission's failure to address these past audit findings. The former interim executive officer indicated that the commission's lack of resources and high staff turnover may be to blame for its failure to implement some of the recommendations. Similarly, Consumer Affairs stated that staff shortages contributed to the commission's operational deficiencies. As we discussed previously, we believe a lack of proper administrative policies, procedures, and controls may have kept the commission from ensuring that it was financially stable and may also have hindered its ability to protect the safety of athletes. Finally, the commission's history suggests that its past leadership lacked commitment to improving its administrative processes and effectiveness.

We are concerned that, because many of these factors remain unchanged, the commission may find addressing the issues noted in this report equally challenging. The commission continues to lack sufficient staffing. In fact, due to its current precarious financial situation, it has fewer staff now than it had in the past, as we discuss in Chapter 1. In addition, the commission continues to lack formal administrative policies, procedures, and controls that would allow it to demonstrate that it can effectively manage its budget while protecting the safety of the athletes it regulates. Although we acknowledge that the newly appointed executive officer has taken significant steps to attempt to resolve many of the deficiencies that we and Consumer Affairs have identified, he has not had enough time to demonstrate that these steps can entirely correct the commission's many problems. In addition, we are concerned that because the current improvements in the commission's administration are primarily attributable to the executive officer's efforts, it may continue to fail to correct its deficiencies if he should choose to leave his position.

In the past, the commission's administrative struggles have called into question its continued existence. In 2005 the former Joint Committee on Boards, Commissions, and Consumer Protection (joint committee) conducted a sunset review of the commission and decided to recommend eliminating it because it had failed to adequately address various concerns raised by past reviews. In its decision, the joint committee cited Consumer Affairs' 2003 audit that found that the commission was not maintaining

The commission's history suggests that its past leadership lacked commitment to improving its administrative processes and effectiveness.

key documents in the event files. Without accurate statistics on tickets sold and fees assessed, the joint committee noted that the Consumer Affairs' auditor has been unable to determine whether the commission's accounting was ever properly done.

As a result of the joint committee's decision, the Legislature transferred the commission's duties and responsibilities to Consumer Affairs for a period of six months. However, at the end of this period, the Legislature chose to reestablish the commission. The joint committee stated at that time that regulatory functions are best served by the transparency implicit in a multimember board such as the commission, where the commissioners carry out their responsibilities in an open forum. Nevertheless, our review makes clear that the commission has failed to correct the key issues upon which the joint committee based its 2005 decision to recommend eliminating the commission.

A joint hearing of the Senate Business, Professions, and Economic Development and Assembly Business, Professions, and Consumer Protection committees is scheduled to conduct the commission's next sunset review in April 2013. We believe that, in deciding on a recommendation regarding the commission, the legislative committee members should carefully consider the issues presented in this audit and in past audits and reviews, as well as the commission's current ability to address these problems. On one hand, the current executive officer has begun to take significant steps to address many of the issues we identified during our field work, and we believe he needs more time to demonstrate that he can sufficiently correct the commission's many ongoing problems. On the other hand, the executive officer likely cannot accomplish all that is necessary with his current staff—in particular, his lack of an assistant executive officer is problematic—without assistance from Consumer Affairs. Thus, we believe the commission, with assistance from Consumer Affairs, needs to develop an action plan that prioritizes its most significant deficiencies, such as the undefined roles of the executive officer and commissioners regarding communication, the lack of a long-term financial plan, and its poor tracking of key information. It will then need to implement strategies to address these deficiencies.

If the commission is unable to correct its most significant deficiencies in a reasonable time frame, we believe the Legislature should consider transferring the commission's responsibilities to Consumer Affairs.

If the commission is able to develop and follow an action plan within a reasonable time frame, it may be able to demonstrate that it can operate efficiently and effectively. However, if the commission is unable to correct its most significant deficiencies in a reasonable time frame, we believe the Legislature should consider transferring the commission's responsibilities to Consumer Affairs.

Recommendations

To ensure that it maintains adequate documentation to demonstrate that it has regulated events in accordance with state law, the commission needs to update its policies and procedures to ensure that inspectors prepare and submit key documents after events.

To ensure that inspectors receive training as state law requires, the commission should do the following:

- Conduct trainings every six months, or within six months of an event at which inspectors are scheduled to work.
- Formalize a process to track inspectors' training status.
- Continue to evaluate more cost-effective ways of providing training.

To ensure that it uses the neurological account as the Legislature intended, the commission needs to conduct a thorough analysis that identifies the average cost of neurological examinations and the number of athletes whom it licenses. If, after performing such an analysis, the commission determines that it cannot comply with the law as it is currently written, it needs to work with Consumer Affairs' legal counsel and the Legislature to determine a reasonable alternative use of the neurological account.

The commission needs to establish regulations that describe its process for determining its ticket assessment for the neurological account so that it avoids the use of underground regulations.

To operate the pension plan effectively and maximize boxers' benefits, the commission should create policies and procedures for its administration to ensure that it does the following:

- Continue to take action to locate eligible boxers, such as issuing periodic press releases.
- Establish a formal process that will enable it to better track boxers' mailing addresses.
- Transfer funds on a regular basis from the pension fund's state account into its investment account.

To comply with state law governing the pension plan, the commission needs to do the following:

- Limit its expenditures for administering the pension plan to 20 percent of the average of the prior two years' contributions to the plan.
- Discontinue paying the pension plan's administrative costs from its athletic commission fund. It should ensure that it pays those costs only from the pension fund.
- After it has an accurate and complete listing of all licensed athletes and box office information by event type, conduct the analysis to determine the feasibility of expanding the pension plan to cover all athletes and report the results to the Legislature.

To ensure that it promptly addresses this report's findings, the commission should work with Consumer Affairs to develop an action plan to prioritize and resolve its most significant deficiencies within a specified time frame. At the very least, the commission should commit to the following within one year:

- Establishing policies and procedures that clearly delineate the roles and responsibilities of the commissioners, the executive officer, and commission staff in the commission's administrative processes, such as developing and approving its budget.
- Developing a long-term financial plan based on its actual event revenues and expenditures that includes practical cost-cutting and revenue-enhancing strategies.
- Setting up systems to track key information, including revenues, expenditures, events, inspectors, and licensees.
- Formalizing administrative policies, procedures, and controls that relate to revenue collection, revenue processing, and separation of duties.

If the commission fails to implement its plan by the time frame specified, the Legislature should consider transferring the commission's responsibilities to Consumer Affairs.

We conducted this audit under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives specified in the scope section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

Date: March 21, 2013

Staff: Laura G. Kearney, Project Manager
Kathleen Klein Fullerton, MPA
Tram Thao Truong
Kevin Kalhoefer, MPP
Danielle Novokolsky

Legal Counsel: Richard B. Weisberg, JD

For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

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Appendix

STATUS OF RECOMMENDATIONS

In 2004 the Joint Legislative Audit Committee (audit committee) asked the California State Auditor (state auditor) to assess the State Athletic Commission's (commission) administration of the Boxers' Pension Plan (pension plan). Specifically, the audit committee was interested in the condition of the pension plan, whether the commission was meeting the statutory requirements for pension contributions, how much the commission was spending on administrative costs, and the best course of action to ensure the long-term viability of the Boxers' Pension Fund. In July 2005 we issued a report titled *State Athletic Commission: The Current Boxers' Pension Plan Benefits Only a Few and Is Poorly Administered*, Report 2004-134. This report generally concluded that the commission had not adequately administered the pension plan and that the plan was benefiting only a few boxers.

In that report, we made nine recommendations to the commission. We subsequently used the information the commission provided to us in response to the audit to assess its implementation of these recommendations. Table A beginning on the following page summarizes the commission's responses and our determinations regarding its implementation of our recommendations as of January 31, 2013. We concluded that the commission has fully implemented three of our recommendations, has partially implemented four, and has taken no action on two.

Table A
Status of Recommendations

RECOMMENDATION	CALIFORNIA STATE AUDITOR'S STATUS DETERMINATION AS OF JANUARY 31, 2013	SUMMARY OF THE CALIFORNIA STATE AUDITOR'S CURRENT ASSESSMENT
1 If the State Athletic Commission (commission) believes the current vesting criteria are excluding professional boxers for whom the Boxers' Pension Plan (pension plan) was intended, the commission could consider eliminating the break-in-service requirement and/or reducing from four to three the number of calendar years that a boxer must fight.	Partially implemented	The commission instructed the pension plan administrator to conduct analyses of the impact of these changes. Although our recommendation was not specifically implemented, in 2009 the commission changed its regulations by lowering the age at which vested boxers can receive pension benefits from 55 to 50, thereby increasing the number of boxers' eligible for pension benefits. Furthermore, the pension plan administrator stated that eliminating the break-in-service requirement would lower future boxers' account balances by eliminating forfeitures as a source of revenue for the boxers' pension fund (pension fund) and would create a significant burden on commission staff by requiring them to monitor the additional number of accounts. Finally, the commission stated that it plans to discuss at its February 2013 commission meeting whether it should reduce from four to three the number of calendar years that a boxer must fight.
2 To increase the likelihood that vested boxers are locatable for benefit distribution after they turn age 55, the commission should mail an annual pension statement to all vested boxers.	Partially implemented	According to the commission, although it mails annual pension statements to vested—or eligible—boxers for whom it has contact information, it lacks contact information for the majority of eligible boxers. However, as we describe in Chapter 2 of our report, the commission has recently taken steps to increase its ability to locate professional boxers who are currently eligible to receive benefits, or who will become eligible in the future. These steps include issuing a press release in an attempt to inform eligible boxers or their beneficiaries about their unclaimed pension benefits and requesting that boxers complete a Professional Boxers' Pension Plan Enrollment Form at events, which is a process that, if followed, should enable the commission to more easily locate boxers in the future.
3 To maximize pension fund assets, the commission should do the following:	No action taken	According to the commission, increasing the ticket assessment could result in a decrease in the number of events promoters choose to hold in California and, as a result, may not be a viable option. The commission further explained that it will continue to monitor the pension fund balance, and if it determines that more revenue is needed in the future to meet targeted pension contributions, it will evaluate whether it should raise the ticket assessment.
3.1 Raise the ticket assessment to meet targeted pension contributions as required by law.	Fully implemented	Consumer Affairs and the commission now have a process that enables Consumer Affairs to deposit pension contributions directly into the pension fund.
3.2 Promptly remit pension contributions from the Department of Consumer Affairs' (Consumer Affairs) bank account to the boxers' pension fund.	No action taken	Although former commission staff indicated that they worked closely with Consumer Affairs' cashing unit after the audit and developed a procedure to ensure that there is little delay in depositing checks, current commission staff could not produce this procedure. Further, our testing of the timing of deposits shows that the commission continues to make untimely deposits. Specifically, for four of the six event files we reviewed for which the commission could demonstrate the date it received the check from the promoter, it took from 11 to 57 working days to remit the checks to Consumer Affairs. The <i>State Administrative Manual</i> requires revenue to be deposited within 10 working days.
4 To ensure that receipts are deposited in a timely manner, the commission should do the following:	No action taken	Although former commission staff indicated that they worked closely with Consumer Affairs' cashing unit after the audit and developed a procedure to ensure that there is little delay in depositing checks, current commission staff could not produce this procedure. Further, our testing of the timing of deposits shows that the commission continues to make untimely deposits. Specifically, for four of the six event files we reviewed for which the commission could demonstrate the date it received the check from the promoter, it took from 11 to 57 working days to remit the checks to Consumer Affairs. The <i>State Administrative Manual</i> requires revenue to be deposited within 10 working days.
4.1 Implement the corrective action proposed by the acting executive officer to Consumer Affairs related to ensuring timely deposit of checks.		

CALIFORNIA STATE AUDITOR'S STATUS DETERMINATION AS OF JANUARY 31, 2013		SUMMARY OF THE CALIFORNIA STATE AUDITOR'S CURRENT ASSESSMENT	
RECOMMENDATION	Partially implemented	Partially implemented	Fully implemented
4.2 Require promoters to remit pension fund contributions on checks separate from other boxing event fees so that deposits of checks and subsequent remittances to the pension fund are not delayed.	Partially implemented	Although the commission has not specifically implemented this recommendation, its current revenue process partially addresses the underlying issue. In particular, under the current process, promoters remit one box office check to the commission for all revenues it is due. Commission staff subsequently code the various revenues to indicate the portions of the check that should be deposited into the commission's various accounts or funds, such as the pension fund and the Neurological Examination Account. However, this new process has not fully corrected the commission's inability to deposit checks within 10 days, as required by the <i>State Administrative Manual</i> and described in the summary column for recommendation 4.1.	
5 To ensure that boxers' information concerning eligibility status and pension account balances are accurate, the commission should do the following:			
5.1 Retain all official documents from each boxing contest.	Partially implemented	Our review of 12 event files, four of which were professional boxing events, as described in Chapter 1, revealed that the commission frequently failed to retain all official documents from events it regulates. However, it recently developed policies that require the retention of official documents in event files.	
5.2 Immediately work with the pension plan administrator to correct errors related to boxers' eligibility status and account balances.	Fully implemented	The pension plan administrator worked with commission staff to make the appropriate changes to correct past errors related to boxers' eligibility status and account balances. The commission stated that it now updates boxer rounds and purse information in an Excel spreadsheet based on event packet information that, based on our review, appeared to be updated for 2009 through 2011.	
5.3 Periodically review a sample of newly vested and pending boxers, and verify their eligibility status and pension account balances.	Fully implemented	The pension plan administrator reviews and reconciles all of the boxers' annual account activity and verifies account balances and eligibility once a year.	

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(Agency response provided as text only.)

Department of Consumer Affairs
Executive Office
1625 N. Market Boulevard, Suite S-308
Sacramento, CA 95834

February 27, 2013

Ms. Elaine M. Howle, CPA*
State Auditor
555 Capitol Mall, Suite 300
Sacramento, CA 95814

RE: California State Athletic Commission Draft Audit Report dated February 21, 2013

Dear Ms. Howle:

The Department of Consumer Affairs is pleased to provide our response to your report on the California Athletic Commission (CSAC) dated February 21, 2013, titled "State Athletic Commission: Its Ongoing Administrative Struggles Call Its Future Into Question". We have coordinated with CSAC in preparing this response. The Executive Officer's letter, also contained within this packet, addresses the bulk of the recommendations which were directed at CSAC.

We would like to address the issue of Conflict of Interest Filing at DCA. DCA does have a comprehensive ten step written procedure addressing board members' appointments. We are attaching a copy of this procedure which has been in place since 2003. We are providing training to our filing officer to reiterate these procedures and reinforce how conflict of interest forms are to be obtained, reviewed, filed, and followed up. The filing officer will coordinate with CSAC to ensure the policy is followed.

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With regard to the other recommendations in the report, we concur with the recommendations in the report and fully support the CSAC Executive Officer's efforts to implement the recommendations. We are currently working with CSAC to address a long-term action plan, and to implement those recommendations identified as first year priorities in your report.

In addition, DCA Internal Audits and the DCA Division of Investigation have prepared recommendations addressing event regulation issues and box office receipt improvements that should, together with those identified by BSA, significantly improve operations at CSAC.

If you have any questions, please contact DCA's Chief Internal Auditor, Cathleen Sahlman, at (916) 574-8190.

Sincerely,

(Signed by: Denise D. Brown)

Denise D. Brown
Director

Attachment

* California State Auditor's comments appear on page 73.

CONFLICT OF INTEREST ASSUMING OFFICE PROCEDURES**BOARD MEMBERS****GUBERNATORIAL/LEGISLATIVE APPOINTMENT**

Step	Process
1	During the initial Departmental* interview of potential Board Member candidates, the Department of Consumer Affairs (DCA) Board Relations Office will advise the candidate of their responsibility and requirements regarding the filing of the FPPC Form 700 "Statement of Economic Interests," Ethics Training, and submission of Oaths of Office. (*Note: majority of interviews are conducted through appointing authority channels).
2	Upon receipt of new Board Member information, the Board Relations Office notifies assigned Department of Consumer Affairs (DCA), Office of Human Resources (OHR) Conflict of Interest (COI) Coordinator of pertinent information of incoming Board Member, which will include: effective date of appointment (date of Governor's press release or letter of congratulations from legislature – Assembly Speaker or Senate Rules Committee), date of term expiration, mailing address of record, and date of assuming office (date oath of office is signed). (Government Code §1367. No compensation nor reimbursement for expenses incurred shall be paid to any officer by any public agency unless (s)he has taken and subscribed to the oath or affirmation required by this chapter).
3	Board staff supplies Personnel Office, Transaction Specialist with HR 03 along with all supporting documents. OHR will input all pertinent Board Member information into Human Resources Information System (HRIS).
4	OHR COI Coordinator sends COI package to Board Member mailing address of record with cover memo outlining due date (within 30 days of Board Member assuming office) and penalties for non-compliance. A copy of the cover memo to be provided to FPPC, DCA Board Relations Office, the appointing Board's Executive Officer and the Board's COI contact, outlining the obligations for filing, the penalties imposed.
5	OHR COI Coordinator sets up suspense (tickler) file to ensure compliance is met (Form 700 is returned to DCA within 30 days of Board Member assuming office).
6	Upon receipt of Form 700 from Board Member, OHR COI Coordinator date stamps and forwards original to FPPC; retains copy for department files and sends a copy to appointing Board's Executive Officer. [If Board Member files directly with Commission, FPPC will send DCA a copy]. *Incomplete forms will be returned to Board Member by FPPC for completion and/or correction. (*Note: FPPC conducts audits of submitted forms for proper completion. Audit authority rests with FPPC).
7	If Board Member does not file Form 700 within statutory timeframe (form returned to Board Member for correction/completion, 30-day time limit has expired, original not sent, etc.), OHR COI Coordinator will inform DCA Board Relations Office, who will send Board Member a reminder letter; a copy will be provided to the COI Coordinator, the Board's Executive Officer, and the DCA Director.
8	If Board Member does not comply within 30 days from date of assuming office, FPPC sends another notice apprising Board member of penalties assessed. A copy of notice is forwarded to OHR COI Coordinator, who forwards copy of notice to the DCA Board Relations Office. The DCA Board Relations Office will notify the DCA Director to determine appropriate course of action.
9	The DCA Board Relations Office will inform (by letter) the appropriate appointing authority of non-compliant Board Member with (cc's) to the DCA Director, appointing board's Executive Officer, DCA COI Coordinator, and non-compliant Board Member.
10	If Board Member remains in noncompliance, the DCA Director will write letter to the FPPC, suggesting Commission assess non-compliant Board Member stringent penalty. A copy of letter to be sent to DCA Board Relations Office and Board Executive Officer.

(Agency response provided as text only.)

California State Athletic Commission
2005 Evergreen St., Ste. #2010
Sacramento, CA 95815

February 27, 2013

Ms. Elaine M. Howle, CPA
State Auditor
555 Capitol Mall, Suite 300
Sacramento, CA 95814

RE: California State Athletic Commission Draft Audit Report dated February 21, 2013

Dear Ms. Howle:

The California State Athletic Commission would like to thank you and your team for the hard work that went into conducting this audit. I am in agreement with the content of this audit with the exception of the following recommendation.

On page 49 of the audit draft your office recommends:

“Seek legislation with the assistance of Consumer Affairs that requires promoters to submit their broadcast contracts and authorizes the commission to impose penalties on those promoters who refuse to submit these contracts. Once the Commission has received a sufficient amount of broadcast contracts it needs to conduct an analysis to determine whether the maximum fee of \$25,000 on broadcast contracts is sufficient or whether it needs to seek a change in state law to increase the fee.”

The Commission needs to study the effects of the above recommendation on the California combative sports industry. Due to the competitiveness of the combative sports industry, changes suggested in the above recommendation may have drastic implications for California. Requiring promoters to submit a broadcast contract may appear feasible and logical at first glance; however, implementing this recommendation could reduce California’s competitive advantage and drive promoters to other states. As a result, it is imperative that the Commission seek input from all of its affected stakeholders before deciding whether this recommendation makes sense for California.

Your report made the following broad recommendations in addition to the more specific recommendations. I have chosen to respond in detail to the prioritized recommendations found on page 73. I will respond more fully to all recommendations at the 60 day deadline so I can be allotted the time for a comprehensive evaluation.

- 1. “Policies and procedures that clearly delineate the roles and responsibilities of the commissioners, the executive officer, and commission staff in the commission’s administrative processes, such as developing and approving its budget.”*

I keep the Chairman informed of the day to day operation of the office and provide him with regular budget reports. I also provide him a more comprehensive monthly budget report that details an executive summary

Ms. Elaine M. Howle, CPA
February 27, 2013
Page 2

of the CalStars report for the Commission's three funds (support, pension, and neurological). In addition, the Department of Consumer Affairs' budget office briefs me, at my request, often on our budget situation and provides monthly reports, which I share with the Commissioners.

I am in the process of drafting a revision to our operating procedures to formalize this process. At the February 25, 2013 Commission meeting held in Los Angeles, Chairman Frierson directed me to place on the agenda a procedure for formal communication between the Executive Officer and the Commission to be addressed at the next meeting. He also instructed me to have a draft ready for the Commission to review. In addition, we are creating desk manuals for staff and formalizing the roles of each position in the next draft of the operating procedures. The next meeting is tentatively scheduled for Sunday, April 21st in San Jose, California. I would estimate these policies and procedures to be fully implemented by July 1st of 2013.

2. *"A longer term financial plan based on its actual event revenues and expenditure that includes practical cost cutting and revenue enhancing strategies."*

I am working with the Commission to develop a long term strategy to continue to provide excellent regulation without reducing the number of events regulated. While the solvency plan was needed at the time it was implemented, we recognize that it is not a long term solution. I have already discussed with the Department of Consumer Affairs' budget office and with the full Athletic Commission about the possibility of requesting a positive Budget Change Proposal (BCP) which would enable us the flexibility to operate with the spending authority needed to regulate an expanding combative sports industry in California.

I have attached a spreadsheet through month seven of the current fiscal year which outlines both the Governor's budget and the solvency plan expenditure allowances. While the solvency plan did impose deep cuts on the Commission, the current detail of expenditures demonstrates the cost cutting strategies we have taken so far. The strategies outlined in the solvency plan have immediately proven to be operationally effective, as is evident from the drastic reduction in travel expenses. In order to cut costs, I have personally begun assigning inspectors and officials based on the following weighted criteria 1) proximity, 2) competency, 3) experience, and 4) last event officiated. Under this model and using proximity as a paramount priority we have been able to reduce travel costs for both the Commission and for promoters. In addition, I personally review every travel claim and timesheet from each inspector at the end of the month. Furthermore, I have initiated fiscal controls to ensure events are staffed adequately but not excessively.

To increase revenue, I am looking at the possibility and estimated costs of regulating amateur mixed martial arts both independently and in partnership with a non-profit, charging an administrative fee for issuance of Federal and National identification cards, and working with legislative staff to codify an event permit fee for each event the Commission regulates.

I am working with the Department of Consumer Affairs to coordinate this long term regulatory and legislative plan. We plan to begin these efforts, within the next three months.

3. *"Systems to track key information including revenues, expenditures, events, inspectors, and licensees"*

We have started using a licensing tracking spreadsheet that is compatible with the new Breeze system scheduled to be implemented in the future. Additionally, in order to track revenue and expenditures for each event, we use a similar spreadsheet that records revenue and expenditures associated with each regulated event. Athletic inspector costs are also recorded in this spreadsheet and this will be performed for a minimum of six months so as to gain an average cost for regulating each type of event. This tool allows the Commission to determine the profit and loss for each event. The Commission implemented the event profit and loss methodology in November 2012.

Ms. Elaine M. Howle, CPA
February 27, 2013
Page 3

To track inspectors we currently use the arbitersports.com website to assist in tracking inspector assignments, but this tool is limited, therefore we will be evaluating further capabilities.

The Commission is scheduled to receive the new Breeze licensing software in 2014, but we are already tracking revenue and expenditures, events, licensees, and inspectors.

4. "Administrative policies, procedures, and controls that relate to revenue collection, cash handling, and separation of duties."

One of the first items of urgency upon my appointment as Executive Officer was to create an administrative manual which included Standard Operating Procedures. Page 11 of the manual focuses primarily on administrative controls related to revenue collection, cash handling, and separation of duties. I am working with Consumer Affairs division of internal audits to ensure that these processes meet high standards expected by the Commissioners and the Department of Consumer Affairs.

While the Commission has been working hard to address many of the recommendations you have outlined in the audit, especially the training of athletic inspectors, some of your recommendations are efficiencies I have not thought of. I look forward to implementing the recommendations so the Commission will continue to improve and provide a superior level of combative sports regulation for all of our stakeholders and to achieve compliance with the law.

Sincerely,

(Signed by: Andy Foster)

Andy Foster
Executive Officer

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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSES FROM THE DEPARTMENT OF CONSUMER AFFAIRS AND THE STATE ATHLETIC COMMISSION

To provide clarity and perspective, we are commenting on the responses to our audit report from the Department of Consumer Affairs (Consumer Affairs) and the State Athletic Commission (commission). The numbers below correspond to the numbers we placed in the margins of the commission's response.

Our recommendations regarding conflict-of-interest requirements were directed to both Consumer Affairs and the commission and concerned separate problems. In response, Consumer Affairs directed us to a 10-step written procedure addressing board members' appointments that has been in place since 2003. There are two reasons why this response fails to address our recommendations. First, the commission has been inconsistent in reporting to Consumer Affairs when commissioners are appointed to the commission or when commissioners leave office. This problem can only be remedied by actions taken by the commission's staff regardless of whatever policy is put into place by Consumer Affairs. Second, as we state on page 38, the filing officer, who works for Consumer Affairs, has accepted incomplete statements of economic interests from commissioners and certain commission staff required by Consumer Affairs' conflict-of-interest code to file these statements. The applicable laws clearly require a filing officer to determine whether a proper statement has been filed, and, among other things, whether the cover sheet and summary page of the statement are completed. Only with respect to staff training does Consumer Affairs' response address how it plans to ensure that the filing officer verifies the completeness of these statements. Moreover, the attached procedure makes no mention of required statements of economic interests from certain commission staff.

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As we stated on page 29, the commission did not begin to consistently track the revenue and expenditures associated with each event that it regulates until January 2013. Although the commission indicates that it implemented the tracking of event profit and loss in November 2012, the process of collecting and tracking this information did not consistently begin until January 2013, at which time the commission had received athletic inspector timesheets and travel expense claims for the months of November and December 2012. As a result, we stand by our conclusion that the commission did not begin to consistently track event profit and loss information until January 2013.

②

cc: Members of the Legislature
Office of the Lieutenant Governor
Little Hoover Commission
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press