

# California State Auditor

B U R E A U O F S T A T E A U D I T S

## **State Athletic Commission:**

*The Current Boxers' Pension Plan Benefits  
Only a Few and Is Poorly Administered*



July 2005  
2004-134

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# CALIFORNIA STATE AUDITOR

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ELAINE M. HOWLE  
STATE AUDITOR

STEVEN M. HENDRICKSON  
CHIEF DEPUTY STATE AUDITOR

July 28, 2005

2004-134

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 (audit committee), the Bureau of State Audits presents its audit report concerning the State Athletic Commission's (commission) operations of the boxers' pension plan. Specifically, the audit committee was interested in the condition of the boxers' pension plan in its current form, whether the statutory requirements for pension contributions are being met, how much is being spent on administrative costs, and the best course of action to ensure its long-term viability.

This report concludes that only a small percentage of boxers who fight in California will ever receive a pension and those who do will only receive a small benefit. Since the pension plan was modified in 1996, on average four boxers per year have vested. While the 18 vested boxers with account balances currently at age 50-54 would have received a defined benefit averaging \$98 per month at age 55 under the original plan, we estimate the average account balance is large enough for the average boxer to receive approximately \$170 per month for 10 years under the current plan when they reach age 55. Finally, the commission has many problems with its day-to-day administration of the pension plan, including failure to raise the 88-cent-per-ticket assessment (pension contributions) to meet the statutory funding requirements, untimely remittances of pension contributions to the state treasurer, and errors in determining boxers' eligibility.

Respectfully submitted,

ELAINE M. HOWLE  
State Auditor

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# SUMMARY

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## Audit Highlights . . .

*Our review of the State Athletic Commission (commission) and the boxers' pension plan revealed that:*

- Under the current plan only four boxers per year are vesting.*
  - The current plan will likely give an average 55-year-old vested boxer a pension benefit of \$170 per month, while the original plan would have paid \$98 per month.*
  - During the four-year period from 2001 through 2004, payments for pension plan administration costs were six times greater than the amount of benefits paid to boxers.*
  - Since the inception of the current plan, the commission met the minimum funding requirement in only one out of nine years.*
  - Poor administration of the pension plan resulted in untimely recording of pension contributions, inaccurate reporting of boxers' eligibility status, and incorrect account balances.*
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## RESULTS IN BRIEF

To provide a small amount of financial security for professional boxers, the Legislature authorized the creation of a boxers' pension plan and gave the State Athletic Commission (commission) exclusive control of all funds in the plan. In 1982 the commission established a defined benefit plan (original plan), which promised participants a specific monthly benefit at retirement. Boxers, managers, and promoters were required to make contributions to this plan. The original plan was changed to a defined contribution plan (current plan) on May 1, 1996. Under the current plan, no specific benefits are promised. Rather, benefits depend on the size of an individual boxer's account, which is partially determined by total ticket sales during the years in which the boxer fights. On December 31, 2003, the boxers' individual pension accounts totaled \$3.39 million.

Only a small percentage of participating boxers will ever receive a pension. Under the original plan, an average of 37 boxers a year vested, which means they will be eligible for benefits upon retirement. The current plan requires four years of participation before qualifying for benefits rather than the three required by the original plan; this contributed to lowering the average of new boxers vesting to four per year. We considered the impact of eliminating the requirement that boxers must fight at least 10 scheduled rounds during any 36 consecutive months (break in service) while keeping the requirement of 75 rounds regardless of the number of years it took to fight them. This liberalizing of the vesting criteria would only increase the average annual number of boxers vesting from four to 10.

While the original plan guaranteed a specified small pension, the current plan may allow a larger pension benefit. Under the original plan's age 55 benefit rate of 80 cents per month per round fought, boxers currently at age 50 to 54 would have qualified for a pension benefit averaging \$98 per month. Based on the size of these boxers' accounts, the current plan will likely give them a benefit rate of \$1.39 per month per round fought, or \$170 per month.

During the four-year period from 2001 through 2004, benefits distributed to boxers totaled \$36,000 while payments for administrative costs totaled \$227,000, six times the amount of benefit payments to boxers. It is also unlikely that benefit payments will exceed administrative costs on a consistent basis in the near future.

The commission has many problems with its day-to-day administration of the boxers' pension plan. For example, it has not adjusted its 88-cent-per-ticket pension contribution assessment in order to meet the minimum funding level for the current plan as required by law. According to a March 1996 memo from the Department of Consumers Affairs (Consumer Affairs) legal office to the then executive officer of the commission, the base amount to fund the current plan would be \$95,000 beginning in 1996, and it would increase annually thereafter based on the consumer price index applicable to California. The commission only met the target in one of nine years and to date has undercollected by a total of \$300,000.

Additionally, the commission is both slow and inaccurate in performing its administrative duties related to the boxers' pension plan. Problems include untimely depositing of incoming checks to the Consumer Affairs bank account, untimely remittance of pension contributions to the State Treasurer's Office, and missing support documents. Lastly, the commission's lack of monitoring may have contributed to the pension plan administrator's errors in determining boxers' eligibility going undetected.

## **RECOMMENDATIONS**

The Legislature may want to reconsider the need for a pension plan for retired professional boxers since so few boxers annually meet the current criteria of a professional boxer.

If the Legislature decides to continue the boxers' pension plan, we recommend the following steps:

- If the commission believes the current vesting criteria exclude professional boxers for which the pension plan was intended, the commission should consider eliminating the break in service requirement and/or reducing from four to three the number of calendar years that a boxer must fight.

- To maximize pension fund assets, the commission should do the following:
  - ◆ Raise the ticket assessment to meet targeted pension contributions as required by the law.
  - ◆ Promptly remit pension contributions from Consumer Affairs bank account to the boxers' pension fund.
- To ensure receipts are deposited in a timely manner, the commission should implement the corrective action proposed by the acting executive officer to Consumer Affairs related to ensuring timely deposit of checks.
- To ensure boxers' information concerning eligibility status and pension account balances are accurate, the commission should do the following:
  - ◆ Retain all official documents from each boxing contest.
  - ◆ Immediately work with the pension plan administrator to correct errors related to boxers' eligibility status and account balances.
  - ◆ Periodically review a sample of newly vested and pending boxers, and verify their eligibility status and pension account balances.

## **AGENCY COMMENTS**

The commission agrees with the findings and conclusions. In addition, the commission agrees with the recommendations and plans to address them promptly. ■

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# INTRODUCTION

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## BACKGROUND

The State Athletic Commission (commission) is one of the 39 regulatory commissions, 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 consists of seven members and positions for eight staff—the executive officer, four inspectors, and three analysts and technicians—who handle the day-to-day operations. The responsibilities of the commission include setting standards for amateur and professional boxing, kickboxing, and martial arts; conducting examinations and regulatory inspections of these sports; and issuing licenses to entities such as promoters, managers, referees, trainers, and fighters.

### **The Legislature Authorized the Commission to Establish a Pension Plan for Professional Boxers Who Engage in Boxing Contests in California**

To provide a small amount of financial security for professional boxers, the Legislature authorized the creation of a boxers' retirement plan and gave the commission exclusive control of all funds in the plan. In 1982 the commission established a defined benefit plan (original plan). A defined benefit plan promises participants a specific monthly benefit at retirement. Boxers, managers, and promoters were required to make contributions to the original plan. This plan was changed to a defined contribution plan (current plan) on May 1, 1996. According to the prior executive officer, "In an effort to reduce the actuarial risk inherent with a 'defined benefit' plan, the commission's pension [consultant] recommended changing the plan to one that is a 'defined contribution' also known as profit sharing or cash balance plans." Under the current plan, no specific benefits are promised. Rather, benefits depend on the size of an individual boxer's account.

Boxers' accounts receive allocations from three sources: pension contribution assessment (contributions), forfeitures from unvested boxers (forfeitures), and investment earnings minus administrative costs. First, the commission collects an

88-cent-per-ticket pension contribution, up to a maximum of \$4,600 per show, from contests in which boxers participate; the only exceptions are contests held on Native American tribal land (tribal land) and contests in which no tickets were sold (private contests). The contributions cannot be directly attributed to any one boxer fighting in the show since a show may include many contests. Thus, at the end of the year, the pension plan administrator allocates contributions to boxers who participated during the year based on the proportion of each participant's total eligible rounds and total rewards received for the fights (purse) relative to the total eligible rounds and purse of all participants for the year. For the purpose of determining pension eligibility, eligible rounds and purse exclude those relating to private contests and contests that are held on tribal land. Such contests generate no contributions and thus, those respective rounds and purse should not be used to meet vesting requirements nor included in any allocation.

Second, when boxers fight less than 10 scheduled rounds during any 36-consecutive months, they incur a break in service; in which unvested boxers must give up their respective account balances (forfeitures). At the end of the year, the pension plan administrator allocates one-half the forfeitures to boxers who fought during the year based on the proportion of each participating boxer's eligible rounds and purse relative to total eligible rounds and purses during the year and one-half the forfeitures based on the proportion of each boxer's account balance relative to the total balance in the current plan.

Third, the current plan's assets increase in value due to investment gains and interest earnings on its investments (collectively referred to as investment earnings). At the end of each year, the pension plan administrator offsets administrative costs with investment earnings and allocates the remainder to all participants based on the proportion of each individual boxer's account balance relative to the total balance in the current plan. On December 31, 2003, the boxers' pension accounts totaled \$3.39 million.

Vested boxers are those eligible to receive benefits under either the original plan or the current plan. The majority of these boxers vested under the original plan and a few vested under the current plan. The original plan required boxers to fight three calendar years (not consecutive) with at least 10 rounds per year and have a total of at least 75 eligible rounds without a break in service. The current plan requires boxers to fight four calendar

years (not consecutive) with at least 10 rounds per year and have a total of at least 75 eligible rounds, also without a break in service. The definition of break in service given above applies to both the original and the current plan. Under the current plan, vested boxers can receive benefits at age 55 (normal retirement); upon the death of a vested boxer, the commission may distribute his or her benefit to a beneficiary. Vested boxers can also request to receive a medical early retirement benefit or a vocational early retirement benefit at age 36 if they wish to convert their pension benefits to a vocational education benefit for vocational training.

Vested boxers' account balances will grow over time even if they no longer fight because net investment earnings and one-half of the total forfeitures are allocated to all participants based on the proportion of an individual boxer's account balance to the total balance in the plan.

Pending boxers are those who have been fighting without a break in service but have not satisfied the vesting requirements. These boxers' accounts receive allocations of net investment earnings, forfeitures, and pension contributions for as long as they do not incur a break in service. When a break in service does occur, they forfeit the entire account balance up to the date of the break. If that happens, they must start over again.

Intermittent boxers are those who have been fighting off and on, resulting in a break in service, or those coming back from a break in service and having to start over again. These boxers also forfeit their account balance when a break occurs. Most intermittent boxers will probably never vest because they are unlikely to fight enough eligible rounds to avoid a break. According to the pension plan administrator's records, pending boxers and intermittent boxers forfeited more than \$1 million from 1996 through 2003.

In addition to the commission, at least four other entities are involved in the administration of the current plan.<sup>1</sup> Consumer Affairs provides the commission cashing services for pension contributions and accounting purposes. These services include receiving and depositing pension contributions forwarded by the commission. The commission's pension consultant

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<sup>1</sup> The commission may be eliminated in the near future. Existing law sunsets both the commission and its executive officer on July 1, 2006, and permits Consumer Affairs to assume its regulatory responsibilities as of that date unless legislation is enacted by January 1, 2007, to extend the date.

provides legal services and subcontracts with a pension plan administrator who acquires from the commission eligible round and purse information for each licensed boxer participating in the current plan and allocates pension contributions, forfeitures, and net investment earnings on a calendar year basis. The pension plan administrator also determines whether boxers meet eligibility requirements, prepares an annual report for the boxers' pension plan, and prepares individual boxers' annual pension account statements for distribution by the commission. Cash balances that the commission maintains for short-term needs are invested in the pooled money investment account program in the State Treasurer's Office. Lastly, the pension plan's long-term investments are managed by Wachovia Securities. Figure 1 summarizes the responsibilities of each entity involved.

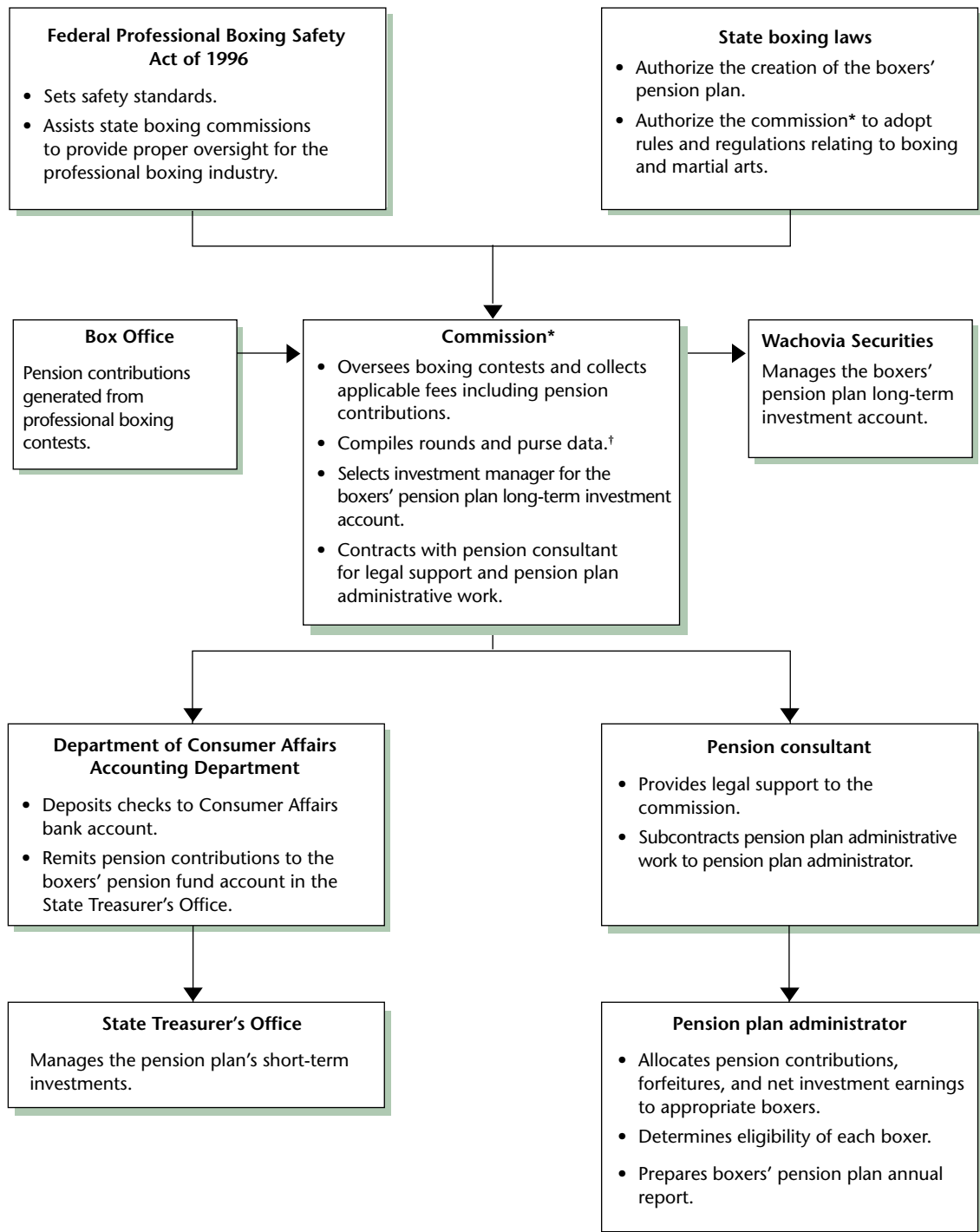
### **The Commission Does Not Collect Pension Contributions From Boxing Contests Held on Tribal Land Because of a Federal District Court Ruling**

The establishment of Indian gaming casinos on tribal land within California has had a significant impact on the contributions originally projected for the new plan. In 1996, the federal Professional Boxing Safety Act of 1996 (act) went into effect and specifically authorized tribal organizations to regulate boxing events on tribal lands. Also in 1996, a federal district court, in *Twenty-Nine Palms Band of Mission Indians v. Wilson*, found that the State of California did not have authority to enforce civil boxing laws on tribal land. In its conclusion the court stated, "Therefore, California's boxing laws are civil/regulatory and not applicable to boxing contests staged on Indian reservations." During 2004, 18 percent, or 23 of the 126 professional boxing shows were held on tribal land.

In January 2004, the executive director of the Center for Public Interest Law, who was the chair of the commission in the late 1970s and instrumental in crafting pension plan rules and legislation, provided testimony to the Joint Legislative Sunset Review Committee that in his opinion the act does not prohibit the commission's collection of pension contributions from contests held on tribal land. However, a legal counsel to the commission from the Office of the Attorney General believes that because boxing contests on tribal land are not subject to state civil laws, the commission cannot collect such pension contributions. Consequently, the commission does not currently collect pension contributions from those contests, which means it also does not count the rounds in these contests toward

**FIGURE 1**

**The Applicable Laws and Administrative Process of the Boxers' Pension Plan**



Source: The State Athletic Commission.

\* The State Athletic Commission.

† The commission enters into an electronic spreadsheet the number of eligible rounds fought and rewards (purse) received by boxers who fought during the year.

pension eligibility. The fact that a number of boxing contests are held on tribal land significantly impacts the amounts that are contributed to the current plan and the number of rounds that otherwise would count toward vesting eligibility.

## **SCOPE AND METHODOLOGY**

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits review the commission's pension plan operations. Specifically, the audit committee was interested in the condition of the current plan, the best course of action to ensure its long-term viability, how much is being spent on administrative expenses, and whether the statutory requirements for pension contributions and benefit distributions are being met.

To obtain an understanding of the commission's pension plan operations, we reviewed applicable laws and regulations. We also interviewed commission staff and the pension plan administrator to identify the commission's processes for collecting and depositing pension contributions, determining pension plan eligibility, allocating pension earnings, and disbursing pension benefits. In addition, we interviewed the commission's pension consultant and legal counsel at the Office of the Attorney General to determine whether the commission is meeting the statutory requirements for funding the current plan and the legal constraints to charging the 88-cent-per-ticket pension contribution for the boxing shows held on tribal land. Lastly, we reviewed the commission's records to determine the number of professional boxing contests held in California during 2004.

To determine the current condition of the pension fund, we analyzed reasons for changes in the balance of the fund and found that the changes were caused almost exclusively by changes in the value of the fund's long-term investment account. We also determined the number of vested boxers and the size of their accounts by their age group. In addition, we determined that total boxer account balances at December 31, 2003, agreed with assets in a brokerage account or the State Treasurer's Office.

To assess the long-term viability of the plan, we estimated the size of benefits the plan would likely pay in the future to boxers approaching retirement age and the rapidly decreasing number of vested boxers that will likely qualify for benefits in the future.

To determine the amount spent on administrative expenses, we reviewed the pension plan administrator's annual reports as well as Consumer Affairs' accounting reports that it reconciled to the cash-basis records maintained by the State Controller's Office.

To determine whether its processes for collecting and depositing pension contributions are appropriate and in accordance with laws and regulations, we reviewed the commission's and Consumer Affairs' records to determine whether the commission collected the correct amount of pension contributions per show and deposited the pension contributions it collected during 2004 into the pension fund account in the State Treasurer's Office.

To determine whether the pension plan administrator correctly determines boxer eligibility status and correctly allocates amounts to boxers' accounts, we obtained and analyzed the electronic file used to determine boxer eligibility status and to allocate contributions, forfeitures, and investment earnings.

To determine if eligible round and purse data forwarded to the pension plan administrator was correct, we intended to review ring records for 10 boxers each from 2001 to 2004, totaling 40 boxers. However, as recently as May 2005, the commission was not able to provide a summary of boxer account balances for 2004; therefore, we limited our review to the ring records of 30 boxers from the prior three years.

To determine whether the commission disburses benefits in accordance with applicable laws and regulations, we reviewed its records for eight of 16 benefit disbursements during 2001 to 2003. Although we found and reported numerous errors in both manual and electronic records, we believe the data was sufficiently reliable for the purposes of our report. ■

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# AUDIT RESULTS

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## **ALTHOUGH POTENTIALLY MORE GENEROUS THAN THE ORIGINAL PLAN, THE CURRENT PENSION PLAN BENEFITS EVEN FEWER BOXERS**

Combining both the defined benefit plan (original plan) and the defined contribution plan (current plan), only 14 percent of licensed boxers have vested as of December 31, 2003, and account balances for most vested boxers are small. Under the current plan, which began in May 1996, even fewer boxers have vested than under the original plan. Although vested boxers currently approaching retirement age are likely to receive more benefits than the original plan guaranteed, pension amounts will still be minimal. From 2001 to 2004, benefit payments to boxers totaled \$36,000 while the payments to administer the plan were six times higher.

### **A Small Percentage of Licensed Boxers Are Vested in the Pension Plan**

A small percentage of boxers who participate in the pension plan have a possibility of benefiting from it upon retirement. Table 1 on the following page summarizes how many boxers are eligible to receive benefits, how many are pending, and how many are intermittent. As shown in Table 1, only 14 percent, or 448 participating boxers, are currently eligible to receive pension benefits. Taking into account the pension plan administrator's two errors in eligibility determination, as discussed later on page 24, that number is even less. Of the 436 actually eligible boxers, 403 were vested under the original plan. Vested boxers have earned the right to receive benefits. Even if they stop fighting immediately after they become eligible, they will not forfeit their pension balances unless the benefits remain unclaimed for three years after they turn 55. However, if a claim is later made by the participating boxer or beneficiary for the forfeited benefit, the State Athletic Commission (commission) reinstates the amount of the vested account balance, unadjusted by any gains or losses.

**TABLE 1****A Small Percent of Boxers Will Benefit From the Pension Plan**

Eligibility Status	Active in 2003	Active in 2001 or 2002	Inactive	Totals	Percent
Vested*	36	29	383	448 <sup>†</sup>	14%
Pending <sup>‡</sup>	473	384	—	857	27
<b>Subtotals</b>	<b>509</b>	<b>413</b>	<b>383</b>	<b>1,305</b>	<b>41</b>
Intermittent <sup>§</sup>	—	—	1,919	1,919	59
<b>Totals</b>	<b>509</b>	<b>413</b>	<b>2,302</b>	<b>3,224</b>	<b>100%</b>

Source: The plan administrator's pension plan records.

\* Vested boxers have completed both four years of fighting in California with at least 10 rounds each year and had a total of 75 eligible rounds without a break in service.

<sup>†</sup> The correct number of vested boxers should be 436 because 18 boxers out of the 448 should not have been vested and another six should have been vested.

<sup>‡</sup> Pending boxers have not yet completed either four years of fighting without a break in service or 75 eligible rounds.

<sup>§</sup> Intermittent boxers have not consistently fought enough eligible rounds each year to maintain a pending status.

**Very Few Boxers Have Vested Under the Current Plan**

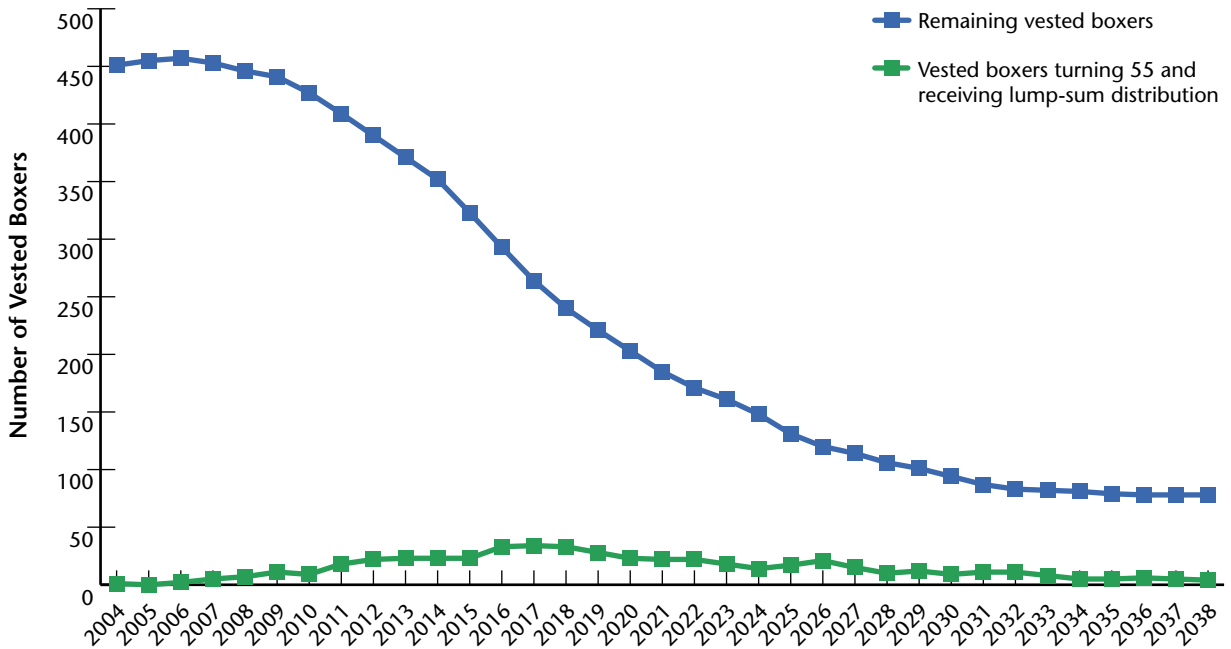
According to the chair of the commission in the late 1970s, who was instrumental in crafting the pension plan rules and legislation, "The [pension] plan does not cover those who box briefly or for several years, but the 10–20 percent of boxers who spend substantial time training and boxing professionally in California and who often do not have alternative pension plans (many do not even have substantial social security contributions). For every champion enjoying a large purse, ten or more contenders—after investing from five to twenty years in the sport—fail to achieve substantial purse revenue. This is the limited group of boxers intended for coverage."

Although it was recognized from the beginning that the group benefiting from this pension plan would be small, even fewer boxers have vested since 1996 partly because eligibility criteria under the current plan are more stringent than those in the original plan. The original plan, which began in 1982, had a three-year boxing requirement. Assuming that the first boxers vested in 1985 and taking into account that 403 boxers were vested by May 1, 1996, when the current plan started, an average of 37 boxers per year vested under the original plan. However, under the current plan,

an average of only four boxers vest each year. As Figure 2 shows, if this trend continues, the remaining number of vested boxers will plateau at below 80 in 2036.

**FIGURE 2**

**The Projected Number of Vested Boxers Will Plateau Below 80 by 2036**



Source: Auditor's projection based on vesting trend from 1996 through 2003.

In addition, the number of vested boxers reaching the retirement age of 55 will peak at 34 in the year 2017 and will plateau at four in the year 2038. We also considered the effect of eliminating the break in service requirement while keeping the total of 75 rounds regardless of the number of years that it took to fight them. Even liberalizing the vesting criteria to this degree only increased the annual average number of boxers vesting from four to 10.

Of the 279 boxers who first fought in 1997, 11 (4 percent) were vested by the end of 2003, 12 (4 percent) were pending, and 256 (92 percent) had a break in service and had their account balances forfeited. Thus, of the boxers who started fighting in 1997, between 4 percent and 8 percent are likely to vest.

### Those Few Who Qualify Only Receive a Small Benefit

The pension account balances of the 14 percent of licensed boxers who qualify to receive benefits are very small. Table 2 shows different ranges of vested boxers' account balances by age group and by the number of vested boxers within each range. Of the 19 vested boxers age 50 or older, 16 have account balances between \$5,000 and \$15,000. As discussed in the Introduction, the growth of an individual account depends on the allocated amount of pension contributions, forfeitures, and net investment earnings. Contributions are allocated annually to boxers based on the proportion of each boxer's total eligible rounds and purses relative to the total eligible rounds and purses for the year. When a vested boxer stops fighting, these contributions end, and additional account growth depends on forfeitures and net investment earnings.

**TABLE 2**

#### Vested Boxers Have Small Account Balances in Their Individual Pension Accounts

Vested Boxers' Account Balances	Vested Boxers' Age as of December 31, 2003							Total Number of Vested Boxers
	20-24	25-29	30-34	35-39	40-44	45-49	50-54	
\$0	0	0	0	3	0	4	1*	8
\$1-\$100	0	0	0	0	0	0	0	0
\$101-\$1,000	0	0	0	0	1	0	0	1
\$1,001-\$5,000	4	24	46	60	33	3	0	170
\$5,001-\$10,000	0	2	8	39	85	55	11	200
\$10,001-\$15,000	0	1	2	4	21	21	5	54
\$15,001-\$20,000	0	0	0	0	3	7	1	11
\$20,001+	0	0	1	1	1	0	1	4
<b>Totals</b>	<b>4 (4)</b>	<b>27 (22)</b>	<b>57 (15)</b>	<b>107 (2)</b>	<b>144 (1)</b>	<b>90 (1)</b>	<b>19</b>	<b>448†</b>

Source: The plan administrator's pension plan records.

Note: Number in parentheses represents the number of boxers vested under the current plan (since May 1996).

\* This boxer is deceased and a death benefit was paid.

† The correct number of vested boxers should be 436 because 18 boxers out of the 448 should not have been vested and another six should have been vested.

**Benefits From the Current Plan May Exceed the Promised Benefits From the Original Plan**

Business and Professions Code, Section 18880, states that the intent of establishing a pension plan was to “insure a modicum (small or moderate) amount of financial security for professional boxers.” Although the original plan guaranteed a specified small pension, the current plan bases the amount of each vested boxer’s pension on the boxer’s individual account. The original plan provided for a defined benefit of \$2 per month per round fought at age 65. It also provided for a reduced benefit for an early retirement that would have amounted to 80 cents per month per round fought beginning at age 55, the age that boxers collect their retirement under the current plan. Under the original plan and at 80 cents per month per round fought, boxers currently at age 50 to 54 would have qualified for a pension benefit of \$98 per month or \$1,176 per year, as shown in Table 3.

**TABLE 3**

**Vested Boxers Between Age 50 and 54 in December 2003 Will Likely Receive a Greater Benefit Under the Current Plan**

	Average Monthly Benefit Payment	Average Annual Benefit Payment	Average Dollars Per Round
Original plan	\$ 98	\$1,176	\$0.80
Current plan	170	2,040	1.39

Source: Auditor’s projection based on boxers’ total rounds fought by the end of 2003.

For the 18 vested boxers between the ages of 50 and 54 with account balances shown in Table 2, the current plan records indicate they fought 123 rounds on average and at the end of plan year 2003 had an average account balance of \$11,006. To determine if they are likely to be able to receive the same pension benefit under the current plan as they would have under the original one, we assumed that each of the boxers’ accounts would continue to grow at a 10 percent annual rate due to a combination of net investment earnings and forfeitures until the boxer is age 55. This is the average rate their accounts have grown since the inception of the current plan. For example, the account for one boxer within this group increased from \$5,186 in 1996 to \$11,142 in 2003, a compounded rate of increase of 10 percent. The increase comprised \$4,016 in

net investment earnings and \$1,939 in forfeitures. Assuming a 5 percent return on an annuity after retirement, the current plan would give the average 55-year-old vested boxer a pension benefit of \$170 per month for 10 years, or \$1.39 per month per round fought, which exceeds the 80-cent rate of the original plan as shown in Table 3.

Our assumption of a 10-year life after retirement is conservative based on a March 1994 memo from a former executive officer of the commission to its actuary, which states that the United States Abstract Publication (1991 Edition) mortality table that projects life expectancy for an individual's birth year shows an individual born in 1970 will live 61.3 years.<sup>2</sup>

### **Boxers' Account Balances Primarily Depend on Investment Gains to Grow**

From the inception of the current plan on May 1, 1996, to December 31, 2003, the long-term investment account balance grew by \$1.52 million in total, a compound growth rate of 8 percent. These investment gains were supplemented by other gains including interest from deposits in the state treasurer's pooled money investment program and \$51,000 in pension contributions the pension plan administrator did not allocate to boxers who fought during the year as pension contributions should have been allocated. However, as shown in Table 4, administrative costs reduced the amount of these earnings allocable to boxers to \$1.48 million.

According to the plan administrator's reports, the total administration cost between 1996 and 2003 was \$432,000. The investment earnings net of administrative costs are allocated to all boxers with account balances. Pension contributions totaling \$480,000 were allocated during this same time period to boxers who fought during the year. Thus, pension contributions represent only one-fourth of the increases posted to the account balances of all boxers. In addition, individual account balances were reduced by \$550,000 for distributions to boxers for refunds of amounts related to the original plan and other purposes authorized for the current plan.

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<sup>2</sup> According to a former executive officer, this statistic is for Blacks and other ethnic groups, the ethnicities of most California boxers.

**TABLE 4****Net Investment Earnings Were Primarily Responsible for Boxers' Account Increases From 1996 Through 2003**

Description	Amount
Boxer account balances on 05/01/1996	\$1,980,000*
Net investment earnings allocated to boxers' accounts (investment earnings less administrative costs)	1,480,000
Pension contributions allocated to active boxers' accounts	480,000
Distributions made from boxer accounts	(550,000)
Boxer account balances on 12/31/2003	\$3,390,000

Source: The plan administrator's pension plan records.

\* Amount includes balance of the refund account, which represents contributions to the original plan by boxers who had not vested when that plan was changed. The plan administrator's records show that two-thirds of the funds in this account were refunded to unvested boxers and the remaining one-third were forfeited and allocated to boxers' accounts in three equal installments from 1999 through 2001.

**Payments for Administrative Costs Far Exceed Benefit Payments to Boxers**

During the four-year period from 2001 through 2004, payments for administrative costs were six times higher than the benefit payments to boxers. Table 5 on the following page provides the total payments for administrative costs and benefits from 2001 through 2004. Over this time period payments for administrative costs totaled \$227,000 and payments for benefits distributed to boxers totaled \$36,000. The pension plan administrative costs included payments related to a contract with a pension consultant for about \$30,000 a year and the commission's share of administrative costs.

It is also unlikely that boxers will receive more in benefits than payments to administer the pension plan on a consistent basis in the near future. If all of the 18 vested boxers with an account balance (shown in Table 2) currently between the ages of 50 and 54 are paid a lump-sum distribution of their estimated account balances at age 55, we anticipate the benefit distributions will not exceed \$14,000 for 2004, \$17,000 for 2005, \$58,000 for 2006, \$113,000 for 2007, and \$81,000 for 2008.

**TABLE 5****Payments for the Pension Plan Administrative Costs  
Far Exceeds Benefits Paid to Boxers**

Year	Administrative Cost Payments	Benefits Payments
2001	\$ 66,843	\$ 4,279
2002	63,311	17,690
2003	75,155	13,861
2004	21,640	0
<b>Totals</b>	<b>\$226,949</b>	<b>\$35,830*</b>

Source: Department of Consumer Affairs' accounting records.

\* According to the plan administrator's records, there were no normal retirement benefits paid during this period and most of the payments were related to vocational education early retirement.

However, benefit payments are unlikely to reach these annual amounts for a number of reasons. First, while the anticipated benefit distributions were \$14,000 for 2004, the actual benefit distributions were zero, as shown in Table 5. Second, six of the 436 actually vested boxers have a date of death recorded in the pension plan administrator's record, and their beneficiaries have not yet claimed a death benefit to which they are currently entitled; thus, it is uncertain if beneficiaries will claim these accounts or the accounts will be forfeited to other boxers. Third, according the commission's assistant chief inspector, he only sends annual statements to boxers licensed within the last two years. Since none of the 18 boxers has fought since 1996, it is possible they have not received a statement in a number of years, may not claim their retirement benefits, and may not be locatable since the commission does not know if it has a current address for them. According to Title 4, Section 405 (d) of the California Code of Regulations (regulations), if a vested boxer has not made a claim for his or her pension by age 58, the account balance is reallocated to other boxers.

*The boxers' account balances of \$3.39 million could have been higher had the commission fully exercised its legal authority to maximize contributions to the current plan.*

**THE COMMISSION HAS MANY PROBLEMS WITH ITS  
DAY-TO-DAY ADMINISTRATION OF THE BOXERS'  
PENSION PLAN**

The boxers' account balances of \$3.39 million could have been higher had the commission fully exercised its legal authority to maximize contributions to the current plan, promptly deposited receipts from boxing contests, and remitted pension



contributions to the pension fund account within the State Treasury in a timely manner. Moreover, the commission needs to periodically review boxers' eligibility status and account balances to ensure that the pension plan administrator correctly determines boxers' eligibility and account balances.

### **The Commission Has Not Followed Applicable Laws to Maximize Pension Plan Assets**

The commission has not met the minimum funding level for the boxers' pension plan as required by law. Existing law requires it to collect contributions in an amount sufficient to finance the boxers' pension plan. The law further provides that sufficient means "no less than the average level of annual aggregate pension plan contributions from all sources for the period from July 1, 1981, through December 31, 1994, and adjusted thereafter to reflect changes in the Consumer Price Index applicable to California as set forth by the Bureau of Labor Statistics." According to the former chair of the commission who was also instrumental in crafting the pension plan rules and legislation, "[statutes] includes a typographical error, stating that the period is from July 1, 1981. The agreement upon enactment of AB 2560 (1996) was to take the three fiscal year period prior to 1994 as the benchmark (July 1, 1991 to June 30 1992), and the next two such fiscal years, with the total for fiscal year 1993–94 as calculated by December 1994." Based on a March 1996 memo from the Department of Consumer Affairs (Consumer Affairs) legal office to the then executive officer of the commission documenting an agreement reached between a boxing industry representative and the former chair of the commission, the agreed-upon base amount would be \$95,000. However, according to the current acting executive officer, the pension consultant informed the commission through numerous presentations that the minimum contribution base was established at \$92,000 per calendar year. However, we believe the March 1996 legal office memo is the more reliable source for the intended minimum contribution in 1996. Although the commission increased the ticket assessment to 88 cents per ticket in July 1999, it only met the target in one of nine years and has undercollected by a total of \$300,000, as shown in Table 6 on the following page.

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*A March 1996 memo from the Consumer Affairs legal office to the then executive officer of the commission stated the agreed-upon base amount to fund the current plan would be \$95,000 per year.*

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If the commission had been able to collect pension contributions from fights on tribal land, the undercollection would have been less. Nothing in the law precludes the commission from adjusting the ticket assessment to raise pension contributions.

The commission could have raised the ticket assessment from 88 cents per ticket to an amount that would yield the desired result, but it did not. If the commission would have collected an additional \$300,000 from either boxing shows on tribal land or from a higher ticket assessment, the average monthly benefit for each retired boxer of \$170 per month would have increased to \$185 per month.

**TABLE 6**

**The Commission Met the Minimum Funding Requirement in Only One Out of Nine Years**

Year	Target Contributions	Contributions Reported*	Variance	Percent of Variance
1996 <sup>†</sup>	\$ 63,333	\$ 43,954	\$ (19,379)	(31%)
1997	97,291	48,620	(48,671)	(50)
1998	99,099	46,021	(53,078)	(54)
1999	101,812	37,858	(63,954)	(63)
2000	105,368	71,038	(34,330)	(33)
2001	109,226	79,318	(29,908)	(27)
2002	111,336	74,047	(37,289)	(33)
2003	113,687	127,397	13,710	12
2004	116,339	89,051	(27,288)	(23)
<b>Totals</b>	<b>\$917,489</b>	<b>\$617,304</b>	<b>\$(300,185)</b>	<b>(33%)</b>

Source: U.S. Bureau of Labor Statistics and State Athletic Commission pension plan annual reports.

\* Contributions reported by the boxers' pension fund differ from contributions reported on boxing inspector reports due to beginning and end of year timing differences.

<sup>†</sup> The base amount for 1996 is \$95,000. For 1997 and each year thereafter, we adjusted the target contributions using the U.S. Bureau of Labor Statistics Consumer Price Index for the west urban region.

<sup>‡</sup> 1996 was a partial year because the current pension plan was established on May 1, 1996 (\$95,000 times 8/12 = \$63,333).

**Administrative Shortcomings Resulted in Untimely Recording of Pension Contributions, Inaccurate Reporting of Boxers' Eligibility Status, and Incorrect Account Balances**

The commission performs its administrative duties related to the boxers' pension fund slowly and inaccurately. We found problems with untimely depositing of incoming checks to the Consumer Affairs bank account, remittances of pension contributions to the boxers' pension fund, and production of

accurate eligible round and purse information; missing boxing contest documents needed to support contribution allocations to boxers; and various errors in determining boxers' eligibility and allocation of amounts to boxers' accounts.

The commission was very slow to deposit checks it received from boxing contests into the Consumer Affairs bank account. The State Administrative Manual, Section 8032.1, requires state entities to deposit receipts within 10 working days. Four checks the commission received from boxing contests in November and December 2004 were not deposited until March 2005, based on our review. The four checks included pension contributions of \$8,413 collected in 2004 but not allocable to boxers' accounts until 2005 because of the delay. Consumer Affairs also shares our concern with these delays. In early March 2005, its accounting staff found 256 checks in the commission's office totaling \$354,351. In a March 27, 2005, response to address Consumer Affairs' concerns, the acting executive officer proposed new procedures to deposit checks on a weekly basis. Further, according to the acting executive officer, he requested that Consumer Affairs provide temporary assistance in preparing deposits. Consumer Affairs agreed to this effective May 23, 2005, according to the assistant chief inspector.

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*As of December 31, 2004, the boxers' pension fund still had not received \$31,116 of the \$95,178 pension contributions reported on the 2004 boxing inspector's reports.*

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Not only is the commission slow to deposit checks into the Consumer Affairs bank account, it is also slow to remit the pension contributions from the Consumer Affairs bank account to the boxers' pension fund in the State Treasurer's Office. As of December 31, 2004, the boxers' pension fund still had not received \$31,116 of the \$95,178 pension contributions reported on the 2004 boxing inspector's reports. The timely identification and remittance of pension contributions is complicated by pension contributions being included along with other fees paid by the promoters in a single check related to the boxing show. Business and Professions Code, Section 18882 (b), requires that all pension contributions be deposited and then remitted to the State Treasurer's Office to the credit of the boxers' pension fund. The pension fund earns interest from the money as soon as it is remitted to the State Treasurer's Office but no interest is earned while it sits in the Consumer Affairs bank account. Additionally, because the boxers' pension fund had not received \$31,116 by December 31, 2004, its pension plan administrator did not allocate these contributions to boxers' accounts, which ultimately resulted in lower individual account balances for 2004.

The commission also has difficulty keeping current in entering accurate boxers' eligible rounds and purse data into the electronic spreadsheet it provides to its pension plan administrator at the end of each calendar year for the allocation of pension contributions, forfeitures, and net investment earnings to boxers. As of May 2005, the commission had not yet provided the 2004 spreadsheet to its pension administrator because errors identified by the acting executive officer had not been corrected. Without the eligible rounds and purse data, the pension plan administrator cannot perform the allocation for 2004, update eligibility status, or prepare the pension plan annual report, which is why we are unable to report on boxers' eligibility status and pension account balances for 2004.

In addition, the commission does not always maintain adequate supporting documents for boxing contests. It could not provide the supervisor's report and payoff sheet for four of 40 boxing contests that we sampled. The supervisor's report includes the boxers' names, California license numbers, and number of rounds fought. The payoff sheet records purse amounts paid to each boxer. Without these reports, the commission cannot ensure that rounds and purse data from the four boxing contests are correctly posted to the electronic spreadsheets.

Lastly, the pension plan administrator does not always correctly determine a boxer's eligibility status and therefore does not always correctly allocate pension contributions, forfeitures, and net investment earnings to the appropriate boxers. For example, the pension plan administrator erroneously determined 18 boxers were eligible for vesting even though they had not yet fought at least 75 rounds as required by Section 405 (a) of the regulations. On the other hand, the plan administrator failed to take into account pre-May 1996 eligible rounds, as required by the regulations, Section 405 (e), and erroneously determined six boxers were not vested. We also found the commission gave credit to at least eight boxers for ineligible rounds and purses related to private contests or contests on tribal land for which it collected no pension contributions. As a result, allocations were incorrect by an indeterminable amount. In addition, the pension plan administrator did not record in the boxer's account one of the eight distributions we tested. As a result, the boxer's account, which should have a balance of zero, instead has a balance of \$1,118. Had the commission periodically reviewed boxers' eligibility status and account balances, these errors might have been detected.

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***The pension plan administrator erroneously determined 18 boxers were eligible for vesting even though they had not yet fought at least 75 rounds.***

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## RECOMMENDATIONS

The Legislature may want to reconsider the need for a pension plan for retired professional boxers since so few boxers annually meet the current criteria of a professional boxer.

If the Legislature decides to continue the boxers' pension plan, we recommend the following steps:

- If the commission believes the current vesting criteria is excluding professional boxers for which the 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.
- 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.
- To maximize pension fund assets, the commission should do the following:
  - ♦ Raise the ticket assessment to meet targeted pension contributions as required by law.
  - ♦ Promptly remit pension contributions from Consumer Affairs bank account to the boxers' pension fund.
- To ensure receipts are deposited in a timely manner, the commission should do the following:
  - ♦ Implement the corrective action proposed by the acting executive officer to Consumer Affairs related to ensuring timely deposit of checks.
  - ♦ Require promoters to remit pension fund contributions on checks separate from other boxing show fees so that deposits of checks and subsequent remittances to the boxers' pension fund are not delayed.
- To ensure boxers' information concerning eligibility status and pension account balances are accurate, the commission should do the following:
  - ♦ Retain all official documents from each boxing contest.

- ◆ Immediately work with the pension plan administrator to correct errors related to boxers' eligibility status and account balances.
- ◆ Periodically review a sample of newly vested and pending boxers, and verify their eligibility status and pension account balances.

We conducted this review 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. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



ELAINE M. HOWLE  
State Auditor

Date: July 28, 2005

Staff: Philip Jelicich, CPA, Deputy State Auditor  
Sheryl Liu-Philo, CPA  
Jenner Holden  
Katrina Williams

*Agency's comments provided as text only.*

State and Consumer Services Agency  
Office of the Secretary  
915 Capitol Mall, Suite 200  
Sacramento, CA 95814

July 12, 2005

Elaine Howle, State Auditor\*  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Dear Ms. Howle:

We are forwarding the response prepared by the California State Athletic Commission to the Bureau of State Audits' Report No. 2004-134 entitled, *State Athletic Commission: The Current Boxers' Pension Plan Benefits Only a Few and Is Poorly Administered*. The California State Athletic Commission is an independent commission within the Department of Consumer Affairs. A copy of the response is also included on the enclosed diskette.

If you have any questions or need additional information, please contact me at (916) 653-4090.

Sincerely,

*(Signed by: Fred Aguiar)*

Fred Aguiar, Secretary

Enclosures

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\* California State Auditor's comment appears on page 31.

*Agency's comments provided as text only.*

California State Athletic Commission  
1424 Howe Avenue, Suite 33  
Sacramento, CA 95825-3217

July 11, 2005

Elaine M. Howle, State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

Dear Mrs. Howle,

Enclosed you will find our Commission's response to your report, titled "State Athletic Commission: The Current Boxers' Pension Plan Benefits Only a Few and is Poorly Administered".

Please feel free to contact me at anytime.

Sincerely,

*(Signed by: Armando Garcia)*

ARMANDO GARCIA  
Executive Officer

Enclosures



## RESPONSE TO RECOMMENDATIONS

The Legislature may want to reconsider the need for a pension plan for retired professional boxers since so few boxers annually meet the current criteria of a professional boxer.

### **1. If the Legislature decides to continue the boxer's pension plan, we recommend the following steps:**

**If the commission believes the current vesting criteria is excluding professional boxers for which the pension plan was intended, the commission should consider eliminating the break in service requirement and/or reducing from four to three the number of calendar years that a boxer must fight.**

*An analysis was conducted through our Employee Benefits Attorney (See attached). The analysis revealed the following:*

*If the break in service requirement were eliminated, an additional 2,014 boxers would enter the pending category. This means that the funds available to all boxers who are eligible for disbursement would greatly decrease.*

*This change is not recommended.*

*If the requirement of four (4) years of activity were decreased to three (3) years, an additional three (3) boxers would enter the plan.*

*I recommend that that we change the activity requirement from four (4) years to (3) three years.*

*Moving forward, I will work with the Commission and the Department of Consumer Affairs to review the present eligibility disbursement requirements. The effort's goal is to establish a clearer criteria and give consideration to a boxer's ring age, i.e. actual age, number of years boxing, total actual number of rounds fought, number of times knocked out, number of times suspended, etc.*

### **2. To maximize the pension fund assets, the commission should do the following:**

**Raise the ticket assessment to meet the targeted pension contributions from its bank account to the boxer's pension fund.**

*The Commission will work with the Employee Benefits Attorney to conduct an analysis of the impact of maintaining or raising the contribution.*

**Promptly remit pension contributions from its bank account to the boxer's pension fund.**

*A strong effort, that includes a monitoring of progress, is being made to accomplish this.*

**3. To ensure receipts are deposited in a timely manner, the commission should do the following:**

**Implement the corrective action proposed by the acting executive officer to the Department of Consumer Affairs related to ensuring timely deposit of checks.**

*An MOU between the Commission and the Department of Consumer Affairs has been let to have an employee come in to the Sacramento office for four (4) hours on a weekly basis to work on cashiering.*

*Additionally, cashiering training for the Commission staff is planned for the very near future.*

**4. Require promoters to remit pension fund contributions on checks separate from other boxing show fees so that deposit of checks and subsequent remittances to the boxer's pension fund are not delayed.**

*A letter to all promoters is being drafted to inform them of new procedures and to confirm existing ones. The letter will go out by August 1, 2005 and will include this requirement.*

**5. To ensure boxer's information concerning eligibility status and pension account balances are accurate, the commission should do the following:**

**Retain all official documents of each boxing contest.**

*This is currently now being done. A monitoring of the progress has also been established.*

**Immediately work with the pension plan administrator to correct errors related to boxers' eligibility status and account balances.**

*This is currently now being done. A monitoring of the progress has also been established.*

**Periodically sample a few newly vested and pending boxers and review their eligibility status and pension account balances.**

*This will also be done and monitored.*

**Cal State Athletic Commission Boxers pension plan**

This is a summary of the status changes given two separate changes to the pension plan: Changing the eligibility for Covered status from 4-years to 3-years, and eliminating the BIS completely.

Status	Existing	3-year requirement	No BIS
C/B covered with break	397	400	0
C covered	43	49	454
B break	1973	1970	0
P pending	757	751	2771

# COMMENT

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## ***California State Auditor's Comment on the Response From the California State Athletic Commission***

To provide clarity and perspective, we are commenting on the State Athletic Commission's (commission) response to our audit. The number below corresponds to the number we have placed in its response.

- We agree that increasing the number of vested boxers will decrease the amount of assets available to each vested boxer's account balance. If the commission believes that all boxers for which the pension plan was intended are currently vesting, it need not change the vesting criteria. However, if the commission believes any of the vesting criteria are excluding boxers for which the pension plan was intended, it should modify the overly restrictive criterion. When evaluating the break in service requirement, the commission should consider our analysis on page 15, which shows that since the defined contribution plan was established, 10 boxers per year would have vested, if both the break in service and the minimum number of years requirements were eliminated. The commission's statement that 2,014 boxers would enter the pending category is not critical to a decision regarding vesting criteria since so few pending boxers ever vest. For example, the plan administrator's record shows only 58 of the 2,014 boxers fought during 2003. Thus, very few pending boxers are making progress toward meeting any type of professional boxer vesting criteria.

cc: Members of the Legislature  
Office of the Lieutenant Governor  
Milton Marks Commission on California State  
Government Organization and Economy  
Department of Finance  
Attorney General  
State Controller  
State Treasurer  
Legislative Analyst  
Senate Office of Research  
California Research Bureau  
Capitol Press