

Date of Hearing: April 11, 2023

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, AND TOURISM
Sharon Quirk-Silva, Chair
AB 1136 (Haney) – As Amended March 29, 2023

SUBJECT: State Athletic Commission: mixed martial arts: pension fund

SUMMARY: Requires the California State Athletic Commission to establish a pension plan for licensed martial artists who compete in mixed martial arts (MMA) contests.

Specifically, **this bill:**

- 1) Makes findings and declarations regarding the necessity of a pension plan for martial artists.
- 2) Defines “martial artist” to mean a licensed professional mixed martial artist, licensed professional kickboxer, licensed professional Muay Thai fighter, or athlete licensed by the commission other than a boxer.
- 3) Defines “mixed martial arts contest” to mean a professional martial arts contest approved by the commission, including kickboxing and Muay Thai, other than boxing.
- 4) Specifies the following related to the pension plan:
 - a) Requires the commission to establish a pension plan for martial artists who engage in mixed martial arts contests in this state.
 - b) Requires the commission to establish the method by which the pension plan will be financed, including those who will contribute to the financing of the pension plan.
 - c) Specifies that the method of financing the pension plan may include, but is not limited to, assessments on tickets, revenue through the sale of sport paraphernalia and souvenirs, and contributions by martial artists, managers, promoters, or any one or more of these persons, in an amount sufficient to finance the pension plan.
 - d) Requires any pension plan established by the commission to be actuarially sound.
 - e) Requires, at the time of payment of the post-contest fees required under the Boxing Act, a promoter to pay to the commission all amounts scheduled for contribution to the pension plan for martial artists.
 - f) Requires, if the commission, in its discretion, requires, pursuant to the pension plan, that contributions to the pension plan be made by the martial artist and the martial artist’s manager, the contributions to be made at the time and in the manner prescribed by the commission.
 - g) Creates the MMA Pension Fund and requires all contributions to finance the pension plan for martial artists shall be deposited in the State Treasury and credited to the fund.

- h) Continuously appropriates all moneys in the MMA Pension Fund to be used exclusively for the purposes and administration of the pension plan.
- i) Specifies that the MMA Pension Fund is a retirement fund, and no moneys within it may be deposited or transferred to the General Fund.
- j) Grants the commission exclusive control of all funds in the MMA Pension Fund and specifies that no transfer or disbursement in any amount from the fund may be made except upon the authorization of the commission and for the purpose and administration of the pension plan.
- k) Requires the commission or its designee to invest the money contained in the MMA Pension Fund according to the same standard of care as a trustee, grants the commission exclusive control over the investment of all moneys in the MMA Pension Fund, and authorizes the commission to invest the moneys in the fund through the purchase, holding, or sale of any investment, financial instrument, or financial transaction that the commission in its informed opinion determines is prudent, except as otherwise prohibited or restricted by law.
- l) Limits the administrative costs associated with investing, managing, and distributing the MMA Pension Fund to no more than 2 percent of the corpus of the fund, requires diligence to be exercised by administrators in order to lower the fund's expense ratio as far below 2 percent as feasible and appropriate, and requires the commission to report to the Legislature on the impact of these requirements during the next regularly scheduled sunset review.
- m) Authorizes a promoter to add to the price of each ticket sold for a professional mixed martial arts contest an amount specifically designated on the ticket for contribution or as a donation, either or both, to the pension plan.
- n) Specifies that any amount added by the promoter is not subject to the admissions tax required by the State Athletic Commission Act or any other deductions.
- o) Specifies that the authority to add to the price of tickets does not authorize the addition of those amounts to less than all the tickets sold for the professional mixed martial arts contest involved, and requires the promoter to pay additional contributions collected in accordance with the pension plan.
- p) Specifies that any additional contributions received from price added may not be considered to offset any of the contributions required by the commission under the pension plan.
- q) Authorizes, in addition to any other form in which retirement benefits may be distributed under the pension plan, the commission to, in lieu of a pension, award to a covered martial artist an early pension benefit for vocational, education, training, or medical need in the amount contained in the covered martial artist's pension plan account at the time the commission makes this award and in the manner provided in the regulations governing the martial artist's pension plan.

- 5) Requires the commission to adopt emergency regulations to implement, interpret, or make specific this article no later than July 1, 2024, deems the adoption of regulations to be an emergency and necessary to avoid serious harm to the public peace, health, safety, or general welfare, specifies that the commission need not make a written finding of emergency, and authorizes the commission to annually readopt emergency regulations that is the same as or substantially equivalent to the previously adopted emergency regulations until January 1, 2026.

EXISTING LAW:

- 1) Regulates and licenses combat sports under the Boxing Act, which is also called the State Athletic Commission Act. (Business and Professions Code (BPC) Section 18600-18887)
- 2) Establishes the State Athletic Commission within the Department of Consumer Affairs (DCA) to administer and enforce the Boxing Act. (BPC 18602)
- 3) Defines “club” and “promoter” synonymously to mean a corporation, partnership, association, individual, or other organization which conducts, holds, or gives a boxing or martial arts contest, match, or exhibition. (BPC 18622)
- 4) Defines a professional or amateur boxer or martial arts fighter as one who engages in a boxing or martial arts contest and who possesses fundamental skills in their respective sport. (BPC 18623)
- 5) Defines “contest” and “match” synonymously to mean professional and amateur boxing, kickboxing, and martial arts exhibitions, and mean a fight, prizefight, boxing contest, pugilistic contest, kickboxing contest, martial arts contest, or sparring match, between two or more persons, where full contact is used or intended that may result or is intended to result in physical harm to the opponent. (BPC 18625(a))
- 6) Defines an amateur contest or match to include a contest or match where full contact is used, even if unintentionally. (BPC 18625(b)(1))
- 7) Provides that an amateur contest or match does not include light contact karate, tae kwon do, judo, or any other light contact martial arts as approved by the commission and recognized by the International Olympic Committee as an Olympic sport. (BPC 18625(b)(2))
- 8) Defines “martial arts” as any form of karate, kung fu, tae kwon do, kickboxing or any combination of full contact martial arts, including mixed martial arts, or self-defense conducted on a full contact basis where a weapon is not used. (BPC 18627(a))
- 9) Defines “kickboxing” as any form of boxing in which blows are delivered with the hand and any part of the leg below the hip, including the foot. (BPC 18627(b))
- 10) Defines “full contact” as the use of physical force in a martial arts contest that may result or is intended to result in physical harm to the opponent, including any contact that does not meet the definition of light contact or noncontact. (BPC 18627(c))
- 11) Defines “manager” as any person who does any of the following:

- a) By contract, agreement, or other arrangement with any person, undertakes or has undertaken to represent in any way the interest of any professional boxer, or martial arts fighter in procuring, or with respect to the arrangement or conduct of, any professional contest in which the boxer or fighter is to participate as a contestant; except that the term “manager” shall not be construed to mean any attorney licensed to practice in this state whose participation in these activities is restricted to representing the legal interests of a professional boxer or fighter as a client. Otherwise, an attorney shall be licensed as a manager in order to engage in any of the activities described in this section. (BPC 18628(a))
- b) Directs or controls the professional boxing or martial arts activities of any professional boxer or martial arts fighter. (BPC 18628(b))
- c) Receives or is entitled to receive more than 10 percent of the gross purse of any professional boxer or martial arts fighter for any services relating to such person’s participation in a professional contest. (BPC 18628(c))
- d) Is an officer, director, shareholder, or member of any corporation or organization which receives, or is entitled to receive more than 10 percent of the gross purse of any professional boxer or martial arts fighter for any services relating to the person’s participation in a professional contest. (BPC 18628(d))

12) Specifies the following related to boxer pension benefits:

- a) Requires the commission to establish a pension plan for professional boxers who engage in boxing contests in this state. (BPC 18881(a))
- b) Requires the commission to establish the method by which the pension plan will be financed, including those who must contribute to the financing of the pension plan. The method of financing the pension plan may include, but is not limited to, assessments on tickets and contributions by boxers, managers, promoters, or any one or more of these persons, in an amount sufficient to finance the pension plan, as specified. (BPC 18881(b))
- c) Requires any pension plan established by the commission to be actuarially sound. (BPC 18881(c))
- d) Requires a promoter to pay the commission all amounts scheduled for contribution to the pension plan at the time of payment of the post-contest fees required under the Boxing Act and requires, if the commission, in its discretion, requires pursuant to the pension plan, that contributions to the pension plan be made by the boxer and the manager, those contributions to be made at the time and in the manner prescribed by the commission. (BPC 18882(a))

13) Specifies the following related to the pension funds:

- a) Creates the Boxers’ Pension Fund, requires contributions to finance the pension plan to be deposited in the State Treasury and credited to the fund, and continuously appropriates

all moneys in the Boxers' Pension Fund to be used exclusively for the purposes and administration of the pension plan. (BPC 18882(b))

- b) Specifies that the Boxers' Pension Fund is a retirement fund and no moneys within it may be deposited or transferred to the General Fund. (BPC 18882(c))
- c) Specifies that the commission has exclusive control of all funds in the Boxers' Pension Fund and prohibits transfers or disbursements in any amount from the fund except upon the authorization of the commission and for the purpose and administration of the pension plan. (BPC 18882(d))
- d) Requires the commission or its designee to invest the money contained in the Boxers' Pension Fund according to the same standard of care as a trustee, specifies that the commission has exclusive control over the investment of all moneys in the Boxers' Pension Fund, and authorizes the commission to invest the moneys in the fund through the purchase, holding, or sale of any investment, financial instrument, or financial transaction that the commission in its informed opinion determines is prudent, except as otherwise prohibited or restricted by law. (BPC 18882(e))
- e) Limits the administrative costs associated with investing, managing, and distributing the Boxers' Pension Fund to be limited to no more than 2 percent of the corpus of the fund, requires diligence to be exercised by administrators in order to lower the fund's expense ratio as far below 2 percent as feasible and appropriate, and requires the commission to report to the Legislature on the impact of this limitation during the next regularly scheduled sunset review. (BPC 18882(f))
- f) Allows a promoter to add to the price of each ticket sold for a professional boxing contest an amount specifically designated on the ticket for contribution as a donation to the pension plan, specifies that the additional amount is not subject to the admissions tax or any other deductions, specifies that this does not authorize the addition of amounts less than all the tickets sold for the professional boxing contest involved, and requires the promoter to pay additional contributions collected in accordance with the pension plan. (BPC 18884(a))
- g) Specifies that any additional contributions received as an added price may not be considered to offset any of the contributions required by the commission under the pension plan. (BPC 18884(b))
- h) Authorizes, in addition to any other form in which retirement benefits may be distributed under the pension plan, the commission to, in lieu of a pension, award to a covered boxer a medical early retirement benefit in the amount contained in the covered boxers' pension plan account at the time the commission makes this award and in the manner provided in the regulations governing the boxers' pension plan. (BPC 18887)

FISCAL EFFECT: Unknown. This measure has been keyed fiscal by the Legislative Counsel.

COMMENTS:

- 1) Author's Statement. According to the author, "This pension fund allows these athletes to save money for their retirement and creates a financial safety net to pay for medical bills. It's the first of its kind in the world of MMA and it's an important step to support these athletes who make MMA one of the fastest-growing sports in the world."
- 2) Background. California, through the California State Athletic Commission, regulates most forms of professional and amateur combative sporting events, such as boxing and martial arts events, including MMA events. Specifically, the commission regulates events where the use of full contact may result in physical harm to an opponent, including amateur contests where full contact may be unintentionally used.

The need for regulation is the inherent risk of harm in combative sporting contests, particularly when held for the entertainment of viewers. Left unregulated, contests may lack safety equipment, mismatch contestants, or, in the case of professionals, fail to pay the contestants. To that end, the commission is tasked with ensuring that contestants who wish to participate in these sports may do so safely and fairly. This is done through the licensing of the fighters themselves, as well as the managers, corners, matchmakers, trainers, promoters, and officials.

Many professional fighters also compete full-time, potentially putting off other career or employment opportunities in the meantime. They also compete on a contractual basis, which may leave them without the usual employer-sponsored benefits one may receive in other sectors, such as retirement benefits.

Acknowledging this issue, California has established a pension plan for boxers under the Boxing Act, finding and declaring that:

That professional athletes licensed [to box], as a group, for many reasons, do not retain their earnings, and are often injured or destitute, or both, and unable to take proper care of themselves, whether financially or otherwise, and that the enactment of [these laws] is to serve a public purpose by making provisions for a needy group to insure a modicum of financial security for professional athletes.

Athletes licensed [to box] may suffer extraordinary disabilities in the normal course of their trade. These may include acute and chronic traumatic brain injuries, resulting from multiple concussions as well as from repeated exposure to a large number of subconcussive punches, eye injuries, including retinal tears, holes, and detachments, and other neurological impairments.

The pension plan of the commission is part of the state's health and safety regulatory scheme, designed to protect boxers licensed under this chapter from the health-related hazards of their trade. The pension plan addresses those health and safety needs, recognizing the disability and health maintenance expenses those needs may require.

However, the plan does not include other licensed martial artists regulated by the commission, including MMA fighters, kickboxers, and Muay Thai fighters. The question of

whether the boxing plan should be expanded to include other licensees has been raised during each of the commission's Sunset Review hearings since 2013.

This bill would require the commission to establish a substantially similar pension plan for martial artists. According to the commission, "This pension fund would ensure MMA fighters have a modicum source of income after they've reached the peak of their fighting career or suffered from an unexpected injury that shortened their career."

This bill is modeled on the laws establishing the boxing pension plan and the Boxer's Pension Fund. The plan and the fund were created in 1982 to help provide support for boxers in their later years. The plan is funded through assessments on tickets and gate fees. Covered boxers who reach the age of 50 may be paid in a lump sum, installments, or as a vocational education benefit.

To vest in the fund, a boxer must meet both of the following qualifications:

- 1) Fought in at least 10 rounds a year for four years in California with no more than a three-year break.
- 2) Fought in at least 75 scheduled professional rounds in California with no more than a three-year break.

The commission oversees the plan and the fund, and it has established a Boxers Pension Plan Subcommittee to make any needed changes to regulatory language and to review the investments and pension accounting to ensure proper processes are followed and contract scope is adhered to. The commission contracts with Benefit Resources, Inc. to administer the pension plan and Raymond James Financial Services Advisors, Inc. to manage the fund investments.

Early on, and as recently as 2015, there were significant questions as to whether the pension fund was functional or sustainable. Since then, the fund appears relatively stable. There were also, and arguably still are, significant hurdles in locating boxers who qualify for a payment. According to the investment fund statement for December 30, 2022, to January 31, 2023, the Pension Investment account has approximately \$4.658 million dollars as of January 31, 2023.

- 3) Arguments in support. According to the Association of Boxing Commissions and Combative Sports, "California is a leader among our members, and Mr. Andy Foster chairs several Committees and speaks at our annual Conference on a variety of issues. Due to California's size and the number of high level mixed martial arts competitions held each year in your state, passage of a pension fund dedicated to the MMA community would be a huge benefit to the fight community as a whole."
- 4) Double-referral. This measure was referred to the Assembly Committee on Business and Professions and to the Assembly Committee on Arts, Entertainment, Sports, and Tourism. This measure passed the Assembly Committee on Business and Professions on a 17 to 0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of Boxing Commissions and Combative Sports
Bash Boxing
California Amateur Mixed Martial Arts Organization, INC. (CAMO)
Englebrecht Promotions & Events
Iconos Fight Entertainment
International Sport Kickboxing Association
North American Boxing Federation
Urijah Faber's A1 Combat

Opposition

There is no opposition on file.

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