

Date of Hearing: May 3, 2022

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA

Tasha Boerner Horvath, Chair

AB 1813 (Medina) – As Introduced February 7, 2022

SUBJECT: State Athletic Commission Act: executive officer

SUMMARY:

This bill clarifies that the Athletic Commission executive officer is currently not liable for discretionary acts.

Specifically, **this bill:**

- 1) Incorporates by reference Section 820.2 of the Government Code to clarify that the executive officer of the Athletic Commission is not liable for discretionary acts, including the approval of contests and the assignment of officials for contests, taken while performing duties pursuant to this chapter.
- 2) States that this provision is declaratory of existing law and does not constitute a change in existing law.

EXISTING LAW:

- 1) State Athletic Commission Act, requires the State Athletic Commission to appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the commission and vested in the executive officer by the act. (Business and Professions Code (BPC) § 18600 *et seq.*)
- 2) The Government Claims Act, provides that a public employee is not liable for an injury resulting from the employee's act or omission if the act or omission was the result of the exercise of the discretion vested in that employee, whether or not that discretion was abused. (Government Code § 820.2)

FISCAL EFFECT: Unknown. This bill has been keyed nonfiscal by Legislative Counsel.

COMMENTS:

- 1) The Boxing Act, or State Athletic Commission Act (State Act), provides for the licensing and regulation of boxers, kickboxers, martial arts athletes and events held in California by the California State Athletic Commission (Commission) within the Department of Consumer Affairs (DCA). (Business and Professions Code (BPC) § 18600 *et seq.*)

- 2) Until January 1, 2020, establishes the Commission, comprised of seven members, five members appointed by the Governor and subject to confirmation by the Senate Committee on Rules confirmation, one member appointed by the Senate Committee on Rules and one member appointed by the Speaker of the Assembly. Specifies that efforts should be made to ensure at least four members have experience in either medicine as a licensed physician or surgeon specializing in neurology, neurosurgery, head trauma or sports medicine, financial management, public safety, and the sports regulated by the Commission. Renders the Commission subject to review by the appropriate policy committees of the Legislature. Authorizes the Commission to appoint a person exempt from civil service as Executive Officer (EO). (BPC §§ 18602 and 18613)
- 3) Provides the Commission with sole direction, management, control of, and jurisdiction over all professional and amateur boxing, professional and amateur kickboxing, all forms and combinations of forms of full contact martial arts contests, including mixed martial arts, and matches or exhibitions conducted, held, or given within this state. Provides that no event shall take place without the prior approval of the Commission and that no person shall engage in the promotion of, or participate in, a boxing or martial arts contest, match, or exhibition without a license, and except in accordance with the State Act. (BPC § 18640)
- 4) The Executive Officer (EO) of the Commission makes discretionary decisions, such as approving bouts and assignment of officials, that have been ruled by a court to be within the immunities provided by Government Code 820.2, which states that a public employee is not liable for an injury resulting from their act or omission where the act or omission was the result of the exercise of the discretion vested in them, whether or not such discretion be abused.
- 5) The selection of officials is one of the most important duties of an EO because it involves making decisions that directly impact the health and safety of athletes engaged in a life-threatening sport. The EO is vested with sole discretion to select boxing officials for every boxing match and most notably, world championship fights, not for the advancement of a commercial or economic interest on behalf of the Commission or its licensees, rather for the health and safety of the athletes. Without the clarification in the legislation, clearly stated in Business and Professions Code Section 18613, plaintiffs may be under the misapprehension that EO's are liable for discretionary acts, including the approval of contests and the assignment of officials for contests.
- 6) This bill clarifies that Government Code 820.2 applies to the EO of the Commission, specifically clarifying that the assignment of referees to boxing bouts is not considered a "ministerial act" and is clearly an act of discretion.
- 7) *Conflict with SB 1443 Roth.* This bill would amend the same code section as SB 1443 Roth, which seeks to extend the sunset review process for this Commission from 2024 to 2025.

The author of AB 1813 has committed to work with the author of SB 1443 to resolve this conflict should both bills be chaptered.

Arguments in Support

Author's statement:

AB 1813 will promote the safety of athletes by recognizing that qualified athletes are competing with competent officials officiating those matches. Furthermore, this bill will keep the focus of the Commission to its assigned functions, rather than fighting potentially superfluous litigation as it relates to the acts of discretionary decisions made by the Executive Officer.”

Association of Boxing Commissions writes in support:

The Association of Boxing Commissions is a 501c3 non-profit organization which is cited numerous times in the Federal Professional Boxing Act of 1996 and the subsequent amendment, the Muhammad Ali Boxing Reform Act.

California's AB-1813 is a creditable clarifying statute (sic). The performance appraisal of a Commission and its Executive Officer can largely be measured by how well the fighters are being protected, matched, and officiated. Bill AB 1813, states clearly that the Executive Officer can make bout approvals and official assignments without fear of judicial proceedings from promoters, sanctioning bodies, or disgruntled officials. To my knowledge, every Commission in the country has this safeguard. The state of California, and this bill simply clarifies that existing state law. The Association of Boxing Commissions enthusiastically supports this clarification.

Arguments in Opposition

None on file.

- 1) *Double Referral.* Should this bill pass out this committee, it will be re-referred to the Assembly Committee on Judiciary.
- 2) *Prior and related legislation.*
 - a) AB 1523 (Business and Professions Committee), Chapter 464, Section 1, Statute of 2019, Extended the operation of the California State Athletic Commission until January 1, 2024.
 - b) SB 439 (Hill), Chapter 316, Statutes of 2015, extended the operation of the California State Athletic Commission (Commission) until January 1, 2020, and makes changes to the laws governing the Commission's operations and the Commission's oversight of professional and amateur combat sports, as specified, held or given in California.
 - c) SB 309 (Lieu), Chapter 370, Statutes of 2013, extended the operation of the California State Athletic Commission until 2016.
 - d) AB 1186 (Bonilla), Chapter 506, Statutes of 2013, clarified that the California State Athletic Commission is authorized to regulate all forms of full contact martial arts contests involving participants 18 years of age or younger, including all forms and

combinations of forms of full contact martial arts contests deemed by the Commission to be similar, and that an amateur contest includes a contest where full contact is used, even if unintentionally.

- e) AB 2100 (Alejo) of 2012, would have required that the Commission, in consultation with the Association of Boxing Commissions (ABC), to establish and enforce a professional code of conduct, as specified, and that persons seeking payment as promoters must make specified disclosures to the CSAC prior to being compensated. (Status: The bill was held in the Assembly Committee on Appropriations.)
- f) SB 543 (Price), Chapter 448, Statutes of 2011, extended the Commission sunset date for 2 years, from January 1, 2012 to January 1, 2014.
- g) SB 294 (Negrete McLeod), Chapter 695, Statutes of 2010, extended the Commission sunset date for one year, from January 1, 2011 to January 1, 2012.
- h) SB 963 (Ridley-Thomas), Statutes of 2008, extended the Commission sunset date from July 1, 2009 to January 1, 2011.
- i) SB 247 (Perata), Chapter 465, Statutes of 2006, reestablished the Commission on January 1, 2007, as an independent board through July 1, 2009.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of Boxing Commissions and Combative Sports

Opposition

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