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AB-1136 State Athletic Commission: mixed martial arts: retirement benefit. (2023-2024)

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Assembly Bill No. 1136

CHAPTER 466

An act to add Article 17 (commencing with Section 18888) to Chapter 2 of Division 8 of the Business and Professions Code, relating to business, and making an appropriation therefor.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1136, Haney. State Athletic Commission: mixed martial arts: retirement benefit.

Existing law, the Boxing Act, also known as the State Athletic Commission Act, creates within the Department of Consumer Affairs the State Athletic Commission. Under existing law, the commission has sole direction, management, control of, and jurisdiction over all professional and amateur boxing and kickboxing, all forms and combinations of full contact martial arts contests, including mixed martial arts, and matches or exhibits conducted, held, or given within California. Existing law authorizes the commission to license professional and amateur boxers, professional and amateur martial arts fighters, booking agents, managers of professional boxers and professional martial arts fighters, trainers, chief seconds, and seconds of each. Existing law prohibits a person from participating in any contest, or serving in the capacity of a booking agent, manager, trainer, or second, unless the person has been licensed for that purpose by the commission.

Existing law establishes the Boxers' Pension Fund, a retirement fund under the exclusive control of the commission, that is funded by an assessment on tickets that is transferred to the commission following a contest or wrestling exhibition, as prescribed, and by contributions by boxers, managers, promoters, or any one or more of these persons. Existing law requires all moneys in the Boxers' Pension Fund to be continuously appropriated to be used exclusively for the purposes and administration of the pension fund. Existing law prohibits any moneys with the Boxers' Pension Fund from being deposited or transferred to the general fund.

This bill would, among other things, require the commission to establish the Mixed Martial Arts Retirement Benefit Fund (MMA Fund) and would continuously appropriate the moneys in the MMA Fund to be used exclusively for the purposes and administration of the MMA Fund. The bill would require the commission to establish a method for financing the MMA Fund, including by a specified assessment on tickets to events under the commission's jurisdiction, by revenue generated through the sale of special interest license plates and other commission-branded items, including, but not limited to, sport paraphernalia and souvenirs, and by contributions from mixed martial artists, managers, promoters, or any one or more of these persons. The bill would require a participating martial artist, as defined, to become vested in the amount credited to the participating martial artist's regular account in the MMA Fund when the participating martial artist has fought in at least 39 scheduled rounds in a commission-sanctioned professional mixed martial art contest held in the state and would prohibit a participating martial artist from being entitled to distribution of the funds held in the participating martial artist's regular account until the participating martial artist is at least 50 years of age. The bill would require contributions to finance the MMA Fund to be allocated to each participating martial artist's regular account on the last day of the MMA Fund year, as specified. The bill would authorize the commission to award an

early retirement benefit to a participating martial artist, who has vested in the MMA Fund but is younger than 50 years of age, for vocational, education, training, or medical need in the amount contained in the participating martial artist's regular account, as specified. The bill would require information submitted by or to a participating martial artist pursuant to that early retirement benefit provision to be confidential and not subject to public disclosure unless, among other things, the participating martial artist, in writing, waives the confidentiality of information submitted to the commission. The bill would also authorize a participating martial artist to designate one or more beneficiaries of the martial artist's benefits from the MMA Fund upon the death of the participating martial artist, as prescribed. The bill would require a form submitted by a participating martial artist to the commission or its designee pursuant to that provision, including a beneficiary designation, to be confidential and not subject to public disclosure, except as specified.

This bill would require the commission to notify any participating martial artist eligible to receive benefits from the MMA Fund of certain information when the right to receive those benefits vests in that martial artist, including the date upon which the martial artist will first be able to claim benefits from the MMA Fund or will first be able to convert all, or a portion of, those benefits to an early medical or early vocational retirement benefit.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 17 (commencing with Section 18888) is added to Chapter 2 of Division 8 of the Business and Professions Code, to read:

Article 17. Mixed Martial Arts Retirement Benefit Fund

18888. The Legislature finds and declares all of the following:

(a) Many Californians find a need, purpose, and great benefit in participating in combat sports.

(b) That professional athletes licensed under this chapter, 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 this article is to serve a public purpose by making provisions for a needy group to insure a modicum of financial security for professional athletes.

(c) Athletes licensed under this chapter 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 and kicks, eye injuries, including retinal tears, holes, and detachments, and other neurological impairments.

(d) The retirement benefit plan of the commission is part of the state's health and safety regulatory scheme, designed to protect professional athletes, including mixed martial artists, licensed under this chapter from the health-related hazards of their trade. The retirement benefit plan addresses those health and safety needs, recognizing the disability and health maintenance expenses those needs may require.

(e) The regulatory system of California is interrelated with the conduct of the trade in every jurisdiction. Athletes licensed under this chapter participate in contests in other states and many athletes who are based in those other jurisdictions may participate in California on a single-event basis.

(f) The outcomes and natures of fights in other jurisdictions are relevant to California regulatory jurisdiction and are routinely monitored for health and safety reasons, so that, for example, a knockout of an athlete licensed under this chapter in another jurisdiction is paid appropriate heed with respect to establishing a waiting period before that athlete may commence fighting in California.

(g) The monitoring of other jurisdictions is an integral part of the health and safety of California athletes licensed under this chapter due to the interstate nature of the trade, and therefore the regulatory scheme for contests and athletes under this chapter

should reflect this accordingly.

18888.1. For purposes of this article:

- (a) "Beneficiary" means a person entitled under this article to receive benefits after the death of a participating martial artist.
- (b) "Martial artist" means a licensed professional mixed martial artist, licensed professional kickboxer, licensed professional Muay Thai fighter, or athlete licensed by the commission other than a boxer.
- (c) "Mixed martial arts contest" shall mean a professional martial arts contest approved by the commission, including kickboxing and Muay Thai, other than boxing.
- (d) "MMA Fund" means the Mixed Martial Arts Retirement Benefit Fund created pursuant to Section 18888.2.
- (e) "Participating martial artist" means a martial artist who participates in a commission-sanctioned contest in the state on or after January 1, 2024, and who is, or may become, eligible to receive a benefit under this article or whose beneficiary may be eligible to receive that benefit.
- (f) "Regular account" means the account maintained by the commission, or its designee, on the records of the MMA Fund for each participating martial artist representing allocations of contributions, adjusted for withdrawals, income, expenses, and released and unrealized gains and losses attributable thereto.

18888.2. (a) The commission shall, consistent with the purposes of this article, establish the Mixed Martial Arts Retirement Benefit Fund for martial artists who engage in mixed martial arts contests in this state.

(b) (1) The commission shall, consistent with the purposes of this article, establish the method by which the MMA Fund will be financed, including those who shall contribute to the financing of the MMA Fund.

(2) The method of financing the MMA Fund shall include any of the following:

(A) (i) An assessment in the amount of one dollar (\$1) on each ticket sold for a professional mixed martial arts contest held in the state.

(ii) The commission may raise, by regulation, the assessment authorized by this subparagraph to an amount not greater than two dollars (\$2) per ticket.

(B) Revenue through the sale of special interest license plates and other commission-branded items, including, but not limited to, sport paraphernalia and souvenirs.

(C) Contributions by martial artists, managers, promoters, or any one or more of these persons, in an amount sufficient to finance the MMA Fund.

(c) The MMA Fund shall be actuarially sound.

18888.3. (a) At the time of payment of the fee required by Section 18824, a promoter shall pay to the commission all amounts scheduled for contribution to the MMA Fund. If the commission, in its discretion, requires, pursuant to Section 18888.2, that contributions to the MMA Fund be made by the martial artist and the martial artist's manager, those contributions shall be made at the time and in the manner prescribed by the commission.

(b) All contributions to finance the MMA Fund shall be deposited in the State Treasury and credited to the Mixed Martial Arts Retirement Benefit Fund, which is hereby created. Notwithstanding Section 13340 of the Government Code, all moneys in the MMA Fund are continuously appropriated to be used exclusively for the purposes and administration of the MMA Fund.

(c) Contributions to finance the MMA Fund shall be allocated to each participating martial artist's regular account on the last day of the MMA Fund year pursuant to both of the following requirements:

(1) Fifty percent of the contributions for the MMA Fund year shall be allocated among the regular accounts of participating martial artists as of the last day of the MMA Fund year in the proportion that each martial artist's scheduled rounds fought for the MMA Fund year bears to the total scheduled rounds fought in the MMA Fund year.

(2) Fifty percent of the contributions for the MMA Fund year shall be allocated among the regular accounts of participating martial artists as of the last day of the MMA Fund year in the proportion that each martial artist's total purses for the MMA Fund years bears to the total purses for all fights fought by participating martial artists in the MMA Fund year.

(d) If a participating martial artist fails to become vested in the amount credited to the participating martial artist's regular account before the participating martial artist's death, the regular account shall be forfeited and reallocated to each participating martial artist's regular account on the last day of the MMA Fund year pursuant to both of the following:

(1) Fifty percent of the allocable forfeiture account shall be allocated among all regular accounts as of the last day of the MMA Fund year in the proportion that each regular account bears to the total regular accounts.

(2) Fifty percent of the allocable forfeiture account shall be added to the contributions for the MMA Fund year and shall be allocated among the regular accounts of participating martial artists who have fought in the current MMA Fund year according to the formula prescribed in subdivision (c).

(e) The MMA Fund is a retirement fund, and moneys within it shall not be deposited or transferred to the General Fund.

(f) The commission has exclusive control of all funds in the MMA Fund. A transfer or disbursement in any amount from the MMA Fund shall not be made except upon the authorization of the commission and for the purpose and administration of the MMA Fund.

(g) Except as otherwise provided in this subdivision, the commission or its designee shall invest the money contained in the MMA Fund according to the same standard of care as provided in Section 16040 of the Probate Code. The commission has exclusive control over the investment of all moneys in the MMA Fund. Except as otherwise prohibited or restricted by law, the commission may invest the moneys in the MMA 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.

(h) The administrative costs associated with investing, managing, and distributing the MMA Fund shall be limited to no more than 2 percent of the corpus of the MMA Fund. Diligence shall be exercised by administrators in order to lower the MMA Fund's expense ratio as far below 2 percent as feasible and appropriate. The commission shall report to the Legislature on the impact of this provision during the next regularly scheduled sunset review.

18888.4. (a) A promoter may, but is not required 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 MMA Fund. The additional amount shall not be subject to the admissions tax required by Section 18824 or any other deductions. This subdivision does not authorize the addition of those amounts to less than all the tickets sold for the professional mixed martial arts contest involved. The promoter shall pay additional contributions collected in accordance with Section 18888.2.

(b) Any additional contributions received pursuant to this section shall not be considered to offset any of the contributions required by the commission under Section 18888.2.

18888.5. (a) After the participating martial artist has vested in the MMA Fund, the participating martial artist shall not be entitled to distribution of the funds held in the participating martial artist's regular account until the participating martial artist is at least 50 years of age.

(b) (1) Notwithstanding subdivision (a), the commission may, in its discretion, award to a participating martial artist, who has vested in the MMA Fund but is younger than 50 years old, an early retirement benefit for vocational, education, training, or medical need in the amount contained in the participating martial artist's regular account at the time the commission makes this award and in the manner provided in the regulations governing the MMA Fund.

(2) Upon distribution of the early retirement benefit authorized by paragraph (1) to the participating martial artist, the participating martial artist's regular account shall be closed, and the participating martial artist shall not receive, or otherwise be eligible for, any further contributions to the regular account or retirement benefits from the MMA Fund.

(3) Notwithstanding any other law, information submitted by or to a participating martial artist pursuant to this subdivision shall be confidential and not subject to public disclosure unless any of the following applies:

(A) The martial artist, in writing, waives the confidentiality of information submitted to the commission.

(B) The information is disclosed pursuant to a lawfully issued subpoena.

(C) The information is disclosed pursuant to a written request from a government agency responsible for the enforcement of civil or criminal laws or the professional licensing of individuals that is conducting an investigation about the person who submitted the information to the commission.

18888.6. (a) At the time of initial licensure pursuant to Article 3 (commencing with Section 18640), the commission shall notify the licensee of the licensee's enrollment in the MMA Fund.

(b) A participating martial artist shall become vested in the amount credited to the participating martial artist's regular account when the participating martial artist has fought in at least 39 scheduled rounds in a commission-sanctioned professional mixed martial arts contest held in the state.

(c) (1) The commission shall determine the eligibility of a martial artist to receive benefits from the MMA Fund based upon information gathered for the commission by the commission staff.

(2) A determination made pursuant to this subdivision shall be conclusive and binding on all persons.

(3) A misrepresentation by a martial artist, manager, promoter, or beneficiary shall be grounds for the denial, suspension, or discontinuance of benefits, in whole or in part, or for the cancellation or recovery of benefit payments made due to the commission's reliance on the misrepresentation.

(d) The commission, or its designee, shall notify any participating martial artist of all of the following when the right to receive benefits from the MMA Fund vests in that martial artist:

(1) The date upon which the right to receive the benefits from the MMA Fund vests in the participating martial artist and the dollar amount of the benefits that have accrued as of that date.

(2) The date upon which the participating martial artist will first be able to receive benefits from the MMA Fund or will first be able to convert all, or a portion of, those benefits to an early medical or early vocational retirement benefit.

(3) The procedure by which the participating martial artist will be able to claim benefits from the MMA Fund.

(4) The procedure by which the participating martial artist will be annually notified of the value of the accrued benefits beginning after the date upon which the right to receive the benefits from the MMA Fund vests in the martial artist.

(5) The ability of the participating martial artist to designate, pursuant to subdivision (e), one or more beneficiaries of the martial artist's benefits from the MMA Fund upon the death of the martial artist.

(e) (1) (A) A participating martial artist may designate one or more beneficiaries of the martial artist's benefits from the MMA Fund upon the death of the participating martial artist.

(B) A married participating martial artist and that person's spouse shall both designate any nonspouse beneficiary or beneficiaries.

(2) A beneficiary designation made pursuant to this subdivision shall be made in writing on a form provided by the commission, or its designee, and shall include the beneficiary's name, date of birth, address, telephone number, and relationship to the martial artist.

(3) A participating martial artist shall be responsible for updating the martial artist's and beneficiary's personal information before distribution of a retirement benefit pursuant to this article.

(f) If a participating martial artist fails to become vested in the amount credited to the participating martial artist's regular account before the participating martial artist's death, the regular account shall be forfeited and reallocated in accordance with subdivision (d) of Section 18888.3.

(g) (1) (A) Except as otherwise specifically permitted by law, the assets and benefits of the MMA Fund shall not be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge.

(B) An anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge made in violation of this paragraph shall be null and void.

(2) The assets and benefits of the MMA Fund shall not be subject to the debts, contracts, liabilities, or torts of the person entitled to those benefits.

(h) (1) Notwithstanding any other law, except as provided in paragraph (2), a form submitted by a participating martial artist to the commission or its designee pursuant to this section, including a beneficiary designation, shall be confidential and not subject to public disclosure unless the martial artist, in writing, waives the confidentiality.

(2) A form described by paragraph (1), or information contained therein, may be disclosed in response to any of the following:

(A) A lawfully issued subpoena.

(B) A written request from a government agency responsible for the enforcement of civil or criminal laws or the professional licensing of individuals that is conducting an investigation about the person who submitted the form to the commission.

(C) A request for information made pursuant to subdivision (a) of Section 1798.24 of the Civil Code from an individual whose personal information is provided in the form.

18888.7. (a) (1) The commission may, in its discretion, hold a hearing, or assign the matter to an administrative law judge for a hearing, for the purpose of determining a question presented to it involving a right, benefit, or obligation of a person under this article.

(2) Paragraph (1) does not apply to an eligibility determination made pursuant to subdivision (c) of Section 18888.6.

(b) If a hearing is held pursuant to this section, the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that Section 11508 of the Government Code shall not apply, and the hearing shall be held at the time and place determined by the commission.

18888.8. A claim by a participating martial artist against the commission arising from the administration of the MMA Fund shall be brought in the County of Sacramento and shall be subject to the Government Claims Act (Part 1 (commencing with Section 810) of Division 3.6 of Title 1 of the Government Code).

18888.9. The commission may adopt regulations to implement, interpret, or make specific this article.

18888.10. (a) The administration of the MMA Fund shall be contingent upon the availability of funds collected pursuant to paragraph (2) of subdivision (b) of Section 18888.2, which do not divert or detract from funds currently utilized to fund existing functions of the commission.

(b) In the absence of funding adequate to meet the requirements of this article, this article does not impose any obligations upon the department, the commission, or the MMA Fund.

18888.11. This article shall not be construed to create a liability on the General Fund, and the General Fund shall not be used to offset or fund any liabilities attributed to the operation of the MMA Fund.

18888.12. Moneys collected pursuant to this article shall not be used to fund boxer benefits under Article 16 (commencing with Section 18880).

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds Sections 18888.5 and 18888.6 to the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

Making confidential records regarding early retirement benefits or retirement benefit forms submitted by a martial artist to the commission, or its designee, protects the individual's right to privacy in that person's vocational, education, training, or medical needs or retirement planning, including designation of beneficiaries, and the personal information included within those records, documents, or forms.