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FISCAL IMPACT REPORT

SPONSOR <u>Sen. Maestas/Rep. De La Cruz</u>	LAST UPDATED <u>2/9/23</u> ORIGINAL DATE <u>1/27/24</u>
SHORT TITLE <u>Athletic Competition Act Changes</u>	BILL NUMBER <u>Senate Bill 176/aSHPAC</u>
ANALYST <u>Anderson</u>	

REVENUE* (dollars in thousands)

Program	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Athletic Commission	At least \$20.2	At least \$20.2	At least \$20.2	At least \$20.2	Recurring	RLD Boards and Commissions

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of SHPAC Amendments Senate Bill 176

The Senate Health and Public Affairs Committee amendment to Senate Bill 176 strikes "unarmed combatants who are" on page 12, lines 11, and 12. The phrase was previously used to describe professional boxers and its removal does not appear to cause a substantive change in the policy, but rather removes redundancy.

On page 12, line 12, after "the," "maximum" is inserted in reference to the weights for each class of professional boxer. This addition provides that fighters included in each weight class are no more than the stated weight, in pounds.

On page 10, line 5, the amount of insurance coverage required for each licensed professional boxer, kickboxer, martial artist, mixed martial artist, or sports entertainment wrestler is increased from \$1,000 to \$2,500. The commission may require this amount by rule, an amount payable to the professional fighter as beneficiary.

Synopsis of Senate Bill 176

Senate Bill 176 amends sections of the Professional Athletic Competition Act to add fighter weight classes and increases annual licensing fees for 11 of the commission's license types, an

average increase of \$73.64 per updated license type. The bill also redefines and broadens the term “telecast” to any form of media including podcast, webcast, and any form of streamed media aired to an audience which should be treated as pay-per-view programming.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

FISCAL IMPLICATIONS

The proposed fee increases in Senate Bill 176 would nearly double New Mexico Athletic Commission’s annual revenue based on licensing data provided by RLD in 2022, from \$20.7 thousand to roughly \$40.9 thousand (attachment 1). Fee increases would be applied to the following license types overseen by the commission: promoter, foreign co-promoter, referees, timekeepers and announcers, seconds and trainers, managers, professional boxers, professional kickboxers, booking agents, matchmakers, and judges. Licensees oversee combative events such as boxing, kickboxing, wrestling, and mixed martial arts. The licenses include all the athletes, corners, and trainers. Broadening the term “telecast” to more forms of public media will likely allow the board to collect more revenue from pay-per-view programming.

SIGNIFICANT ISSUES

New Mexico Athletic Commission was scheduled to terminate on July 1, 2023. Per Section 60-2A-30 NMSA 1978, the agency has a one-year period, through June 30, 2024, to continue operations for the purpose of winding up its affairs. The sunset and sunrise subcommittee met in August 2022 to hear presentations from agencies scheduled to sunset in FY23 (attachment 2, LFC Sunset Brief). The subcommittee took preliminary action and asked the Regulation and Licensing Department (RLD) and independent boards to follow up on action issues. In September, RLD and the independent boards and commissions provided additional recommendations. With one opposing vote, the subcommittee moved to table the decision on the board’s sunset extension, citing that only 25 states have similar regulations and the board operated in a deficit for four past years. On October 19, 2022, the sunset and sunrise subcommittee met to discuss LFC recommendations reflecting the September input from RLD and the independent boards and commissions. At that time, the committee decision for the New Mexico Athletic Commission remained tabled. Legislation was drafted and passed as a result of Extend Certain Board Sunset Dates, Laws, 2023, Chapter 61.

ADMINISTRATIVE IMPLICATIONS

New Mexico Athletic Commission is housed in the Boards and Commissions Division of the Regulation and License Department (RLD). The commission licenses and regulates amateur and professional athletes who participate in competitive combative sports in New Mexico. The commission has been given the authority to enforce the rules and statutes as published in the New Mexico Athletic Commission Chapter 6, the Professional Athletic Competition Act. Combative events include but are not limited to boxing, kickboxing, wrestling, and mixed martial arts. The licenses include athletes, corners, and trainers. RLD provides administrative oversight for New Mexico Athletic Commission, which is among more than 30 boards and commissions providing licensure.

TECHNICAL ISSUES

RLD expressed concerns with the new definitions put forth by SB176 as amended by SHPAC that could cause a potential licensing loophole:

The new definition for “sports entertainment wrestler” eliminates any reference to a “professional wrestler.” The definition is vague as to whether it encompasses professional wrestling, which could cause confusion to applicants and licensees and may effectively create a loophole around the requirements of licensure for applicants and licensees who are promoting or participating in a professional wrestling event.

Under the current act, once a professional boxer has been declared a “professional” boxer, that boxer is not permitted to participate in another athletic commission licensing category as an amateur. SB176 amends the act to allow an unarmed combatant to hold a professional license in one commission licensing category, while maintaining amateur status in another unarmed combat discipline.

If a situation were to arise where an individual who has a professional license in one physical combat discipline is competing in another physical combat discipline as an amateur and then an opponent of that individual were to be injured during the contest, there is concern that litigation could result on behalf of the injured competitor claiming that the injured individual had been placed at an unfair level of risk due to having been placed in the position of competing against a “professional” fighter. While the Tort Claims Act would be presumed to cover the Athletic Commission and any state employees involved in such a matter, litigation expenses to establish a proper defense could still involve significant time and funds. The ultimate liability of the promoters and competitors involved in such a case would be decided by the courts.

ALTERNATIVES

Rather than eliminate sunsets for certain health boards, the repeal dates could be extended for an even number of years, as determined by the committee.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Without the extension of the sunset date, the commission listed in statute will no longer exist, and the Athletic Commission Act will be entirely repealed.

Attachments

1. Athletic Commission – Fee Increases and Projected Revenues
2. LFC Hearing Brief – Sunset Review, Athletic Commission

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