



CEC to prepare and submit, by December 31, 1990, a report to the Governor and the legislature setting forth options and recommendations for aligning investor-owned and public utility conservation and demand side management programs with long-term utility resource plans for minimizing the cost of reliable electricity services. This bill is pending in the Assembly Natural Resources Committee. SB 345 (Torres), which would have required CEC to study the benefits of increasing the surface reflectance of buildings, streets, and highways to conserve energy and reduce global warming, died in committee.

SB 538 (Rosenthal), which would have required CEC to submit to the Senate Rules Committee and the Speaker of the Assembly a compilation and summary of all rules, regulations, and hearing procedures adopted in the past twelve months and being considered for adoption in the next twelve months, died in committee.

SB 1219 (Rosenthal), which would have provided financial incentives for utilities to use cleaner-burning natural gas in place of fuel oil, died in committee.

SB 1679 (Hart), which would have required CEC to develop and implement a statewide fuel economy incentive program in conjunction with the Department of Motor Vehicles, died in committee.

RECENT MEETINGS:

On December 18, San Diego Gas and Electric Company (SDG&E) filed an application with the Commission for construction of a 460-megawatt combined cycle project. The project will consist of two combined cycle units, each generating 230 megawatts. SDG&E proposes to locate the plant at one of the following sites: (1) an undeveloped site, formerly considered for the Sundesert power plant, near Blythe in Riverside County; (2) the Heber Geothermal powerplant in Imperial County; (3) an undeveloped site in the West Sycamore Canyon in the eastern section of Miramar Naval Air Station in San Diego County; (4) the South Bay power plant in Chula Vista in San Diego County; or (5) the Encino powerplant in Carlsbad in San Diego County.

CEC consideration of SDG&E's Notice of Intent and the Executive Director's recommendation of data adequacy was scheduled for CEC's business meeting on January 17.

FUTURE MEETINGS:

General CEC meetings are held every other Wednesday in Sacramento.

HORSE RACING BOARD

Secretary: Leonard Foote
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The California Horse Racing Board (CHRB) is an independent regulatory board consisting of seven members. The Board is established pursuant to the Horse Racing Law, Business and Professions Code section 19400 *et seq.* Its regulations appear in Chapter 4, Title 4 of the California Code of Regulations (CCR).

The Board has jurisdiction and power to supervise all things and people having to do with horse racing upon which wagering takes place. The Board licenses horse racing tracks and allocates racing dates. It also has regulatory power over wagering and horse care. The purpose of the Board is to allow parimutuel wagering on horse races while assuring protection of the public, encouraging agriculture and the breeding of horses in this state, generating public revenue, providing for maximum expansion of horse racing opportunities in the public interest, and providing for uniformity of regulation for each type of horse racing. (In parimutuel betting, all the bets for a race are pooled and paid out on that race based on the horses' finishing positions, absent the state's percentage and the track's percentage.)

Each Board member serves a four-year term and receives no compensation other than expenses incurred for Board activities. If an individual, his/her spouse, or dependent holds a financial interest or management position in a horse racing track, he/she cannot qualify for Board membership. An individual is also excluded if he/she has an interest in a business which conducts parimutuel horse racing or a management or concession contract with any business entity which conducts parimutuel horse racing. Horse owners and breeders are not barred from Board membership. In fact, the legislature has declared that Board representation by these groups is in the public interest.

MAJOR PROJECTS:

Wagering Prohibition Adopted. At its November 17 meeting, CHRB formally adopted an amendment to section 1969, Title 4 of the CCR, which adds satellite

wagering facility supervisors and assistant satellite wagering facility supervisors to the list of persons prohibited from wagering on the result of a race while on duty at a race meeting or satellite wagering facility. The Board had previously discussed the language of this proposal at its August 25 meeting (see CRLR Vol. 9, No. 4 (Fall 1989) p. 130 for background information). This regulatory amendment awaits approval by the Office of Administrative Law (OAL).

OAL Rejects Three Rulemaking Packages. Within a three-day period during October, OAL rejected three sets of CHRB-approved regulatory actions.

On October 16, OAL rejected the Board's adoption of new section 1472, Title 4 of the CCR, which would have provided that each guest association seeking approval to conduct simulcast wagering at its facility shall employ one or more licensed satellite facility supervisors, and established the duties of these supervisors. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 114 and Vol. 9, No. 1 (Winter 1989) p. 100 for background information.) OAL found that the regulation failed to meet the clarity and consistency requirements of Government Code section 11349.1.

Also on October 16, OAL rejected the Board's amendments to sections 2056, 2057, and 2058; its repeal of sections 2059 and 2060; and its adoption of new sections 2059 and 2060, Title 4 of the CCR, governing satellite wagering. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 121; Vol. 9, No. 2 (Spring 1989) p. 144; and Vol. 9, No. 1 (Winter 1989) pp. 100-01 for background information.) OAL ruled that the regulatory action failed to satisfy the necessity, clarity, and consistency requirements of Government Code section 11349.1, and that CHRB failed to include several required documents in its rulemaking file.

On October 19, OAL rejected the Board's amendment to section 2061, Title 4 of the CCR, which would set forth conditions which a racing association must meet in order to use satellite (simulcast) wagering either to accept wagers on the results of out-of-state races or for interstate wagering on California horse races by out-of-state betting systems. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 130 for detailed background on this proposed amendment.) OAL ruled that the regulatory changes failed to meet the clarity, necessity, and nonduplication standards in Government Code section 11349.1; and the Board



REGULATORY AGENCY ACTION

failed to submit a complete rulemaking file and to follow required procedures regarding the mailing of notice of the changes.

Trifecta Wagering. On November 17, CHRHB published a notice of its intent to amend section 1979, Title 4 of the CCR. This section relates to Trifecta parimutuel wagering (selecting horses finishing in first, second, and third, in that exact order).

Existing regulations authorize certain forms of multiple-selection wagering (exotic wagering). This change would provide a licensed racing association in California with additional parimutuel wagering opportunities during their daily racing program, if the association so chooses. According to CHRHB, this action would aid the harness industry, an industry that has experienced declines in racing attendance and wagering. The new regulations would purportedly increase betting opportunities for patrons by generating interest in picking the first, second, and third place finishers (win, place, and show) in a designated Trifecta race.

CHRHB was scheduled to hold a public hearing on this proposed action at its regular meeting on January 26 in Monrovia.

Claiming Restrictions To Be Lifted for Standardbreds. On September 29, CHRHB filed notice of its intent to amend section 1663, Title 4 of the CCR, to exempt standardbred horses from the section 1663 claiming restrictions. Standardbred horses would be eligible to start in a claiming race within thirty days of being claimed without the stipulation that the claiming price must be raised 25% more than the amount for which the horse was claimed. The amendment would also permit a standardbred who was claimed in California to race in other states before the close of the California meeting where the horse was claimed. A hearing on this proposal was scheduled for January 26 at CHRHB's regular meeting in Monrovia.

LEGISLATION:

The following is a status update on bills reported in CRLR Vol. 9, No. 4 (Fall 1989) at pages 130-31:

AB 425 (Floyd), which would repeal the statute providing that no state lottery game may use the theme of horse racing or be based on the results of a horse race, is pending on the Assembly floor at this writing.

AB 170 (Floyd), which would require

CHRHB to include in its annual report a tabulation of injuries, fatalities, and comparative accident rates for all racing and training venues in California, is pending in the Senate Governmental Organization Committee.

SB 593 (Maddy). Existing law requires amounts deducted from wagering on horse races at satellite wagering facilities to be distributed for license fees, purses, commissions, and other specified purposes. This bill, as amended January 4, would require that, from the revenue received by CHRHB, an amount equal to five-tenths of 1% of the amount of money handled in the annual parimutuel pool from wagers at the racetrack where the racing meeting is being conducted, be distributed to the Equine Research Laboratory at the School of Veterinary Medicine at UC Davis for an equine drug testing laboratory. This bill is pending in the Senate Appropriations Committee.

AB 216 (Floyd), which would enact the California Drug Free Horseracing Act of 1989, is pending in the Senate Governmental Organization Committee.

SB 519 (Maddy), which would authorize CHRHB to adopt regulations to allow the entry of thoroughbred horses and Appaloosa horses in quarter horse races at a distance not exceeding five furlongs at certain meetings, is pending in the Assembly inactive file.

AB 235 (Floyd) would have abolished CHRHB and the California State Lottery Commission and would have created the California Gaming Commission to administer and enforce all statutes, rules, and regulations affecting gaming, including the negotiation of any tribal-state gaming compact provided for under federal law. This bill died in committee.

SB 56 (Maddy) would have allowed the Board to authorize the satellite wagering facility at the 22nd District Agricultural Association to conduct satellite wagering on races run in the northern zone for a three-year pilot period. This bill died in committee.

AB 730 (Wright), which would have, among other things, made legislative findings and declarations regarding the California thoroughbred racing and breeding industries, died in committee.

AB 2235 (Statham) would have required an organization operating an advertised signal system and administering the parimutuel operations of satellite wagering facilities to bear the costs of encoding audiovisual signals and waging

ing data, and the costs of operating a separate delivery system for wagering information displays. This bill died in committee.

LITIGATION:

In *California Standardbred Sires Stakes Committee, Inc. v. CHRHB*, the Board and the Hollywood Park Operating Committee (HPOC) are currently appealing a lower court decision against CHRHB in the Third District Court of Appeals. The lower court disqualified three Board members from voting on HPOC's application for a license to conduct a harness race meet at Los Alamitos Race Track.

Harness racehorse owners and the California Standardbred Sires Stakes Committee, Inc. prevailed on their claim that Board members had failed to disclose conflicts of interest and were influenced by favors they received from HPOC. The appeal is being handled by private counsel to avoid further conflict of interest charges. (See CRLR Vol. 9, No. 2 (Spring 1989) pp. 115-16 for background information on this case.)

RECENT MEETINGS:

At its October 27 meeting in Burbank, CHRHB's Equine Medical Director, Dr. Dennis Meagher, stated that drug enforcement measures should emphasize the following areas: prevention of illegal drug medication administration to horses; tougher penalties for drug violations; more work in the area of accuracy and defensibility of laboratory work; and elimination of political influence in the testing process.

Also at its October meeting, CHRHB approved, for recommendation to the Governor, a tribal-state compact between the Morongo Band of Mission Indians and the State of California, whereby the Morongo Band will operate a satellite wagering facility on its reservation. The compact is similar to that previously negotiated with the Cabazon Band. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 131 for background information.) At the time of approval, the Board's staff had not yet inspected the facility.

At its December 15 meeting in Los Angeles, CHRHB approved, for placement on its January meeting's agenda, a resolution limiting the authority of its staff to perform acts on behalf of CHRHB necessitating the exercise of discretion. The resolution is the result of criticism directed at CHRHB due to the Board



members' lack of awareness of numerous actions undertaken by CHRB staff. Commissioner Lansdale addressed the Board in support of the resolution. As an example of the problem, he noted that staff had initiated disciplinary actions against trainers for drug violations, and that certain CHRB members were not even aware that the actions had been initiated until reading about them in the press.

Also at its December meeting, CHRB elected new officers for the 1990 term. Henry Chavez, who served as Vice-Chair during 1989, will serve as Chair. William Lansdale will serve as Vice-Chair.

FUTURE MEETINGS:

To be announced.

NEW MOTOR VEHICLE BOARD

Executive Officer: Sam W. Jennings
(916) 445-1888

Pursuant to Vehicle Code section 3000 *et seq.*, the New Motor Vehicle Board (NMVB) licenses new motor vehicle dealerships and regulates dealership relocations and manufacturer terminations of franchises. It reviews disciplinary action taken against dealers by the Department of Motor Vehicles. Most licensees deal in cars or motorcycles.

NMVB is authorized to adopt regulations to implement its enabling legislation; the Board's regulations are codified in Title 13 of the California Code of Regulations (CCR). The Board also handles disputes arising out of warranty reimbursement schedules. After servicing or replacing parts in a car under warranty, a dealer is reimbursed by the manufacturer. The manufacturer sets reimbursement rates which a dealer occasionally challenges as unreasonable. Infrequently, the manufacturer's failure to compensate the dealer for tests performed on vehicles is questioned.

The Board consists of four dealer members and five public members. The Board's staff consists of an executive secretary, three legal assistants and two secretaries.

MAJOR PROJECTS:

Status Report on Certification Fees. Pursuant to Business and Professions Code section 9889.75, NMVB has been

collecting fees from manufacturers and distributors of new motor vehicles for the purpose of funding the Bureau of Automotive Repair's (BAR) certification of third party dispute programs. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 132; Vol. 9, No. 3 (Summer 1989) p. 121-22; and Vol. 9, No. 2 (Winter 1989) p. 101 for complete background information.) Billing for 1989-1990 fees began on September 29; at this writing, \$182,000 has been collected.

Regulatory Changes Approved. On October 16, the Office of Administrative Law (OAL) approved the Board's amendments to sections 550, 554, and 595, Title 13 of the CCR, to specify that petitions may be filed against new motor vehicle dealers, and to eliminate the requirement that petitioners be California residents. OAL also approved new section 555.1, amended sections 555, 556, 557, 558, and 562, and the repeal of section 559, to simplify existing petition procedures in several ways. The Board also moved section 579 concerning the availability of subpoenas in protest hearings from Article 4 to Article 1, and renumbered it as section 551.2. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 116 and Vol. 9, No. 1 (Winter 1989) pp. 101-02 for detailed background information on these changes.)

LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 9, No. 4 (Fall 1989) at page 132:

AB 552 (Moore) would have given buyers of a motor vehicle pursuant to a conditional sales contract or purchase order the right to cancel the contract or purchase order, without penalty or obligation, until midnight of the first business day after the day on which the contract was signed. This bill died in committee.

SB 582 (Green), which would have deleted existing separate statutory provisions relating to lessor-retailers, and provided instead for their licensing and regulation under the same provisions which apply to dealers, died in committee.

SB 587 (Doolittle), which would make it unlawful for any person to provide unsafe, improperly equipped, unsafely loaded, or unregistered vehicles to a highway carrier, is pending in the Assembly Transportation Committee.

FUTURE MEETINGS:

To be announced.

BOARD OF OSTEOPATHIC EXAMINERS

Executive Director: Linda Bergmann
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In 1922, California voters approved a constitutional initiative which created the Board of Osteopathic Examiners (BOE). Today, pursuant to Business and Professions Code section 3600 *et seq.*, BOE regulates entry into the osteopathic profession, examines and approves schools and colleges of osteopathic medicine, and enforces professional standards. The Board is empowered to adopt regulations to implement its enabling legislation; BOE's regulations are codified in Chapter 16, Title 16 of the California Code of Regulations (CCR). The 1922 initiative, which provided for a five-member Board consisting of practicing doctors of osteopathy (DOs), was amended in 1982 to include two public members. The Board now consists of seven members, appointed by the Governor, serving staggered three-year terms.

The Board's licensing statistics as of August 1989 include the issuance of 1,481 active licenses and 450 inactive licenses to osteopaths.

At BOE's November 1989 meeting, Dr. Stan Flemming and Dr. Earl Gabriel were introduced as new Board members.

MAJOR PROJECTS:

Regulatory Changes. On September 22, the Office of Administrative Law (OAL) approved numerous changes to BOE's regulations, which the Board had adopted at its June 23 meeting. These changes include an amendment to section 1621 regarding approved written examinations for reciprocity licensure; the addition of sections 1660-1662 to implement BOE's Impaired Physicians' Diversion Program; an amendment to section 1676(a) which allows BOE to register previously unauthorized fictitious names; and amendments to section 1690(f), (g), (i), and (j), which lower the annual tax and registration fee, the inactive certificate fee, the medical corporation renewal fee, and the fictitious name permit renewal fee. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 122 for background information on these regulatory changes.)

LEGISLATION:

Proposed Legislation. Under existing law, a physical therapist assistant or aide may perform physical therapy services