



# REGULATORY AGENCY ACTION

provide analysis for activities that the technical advisory group recommends. This bill is pending in the Assembly Natural Resources Committee.

*SB 2057 (Rosenthal)*, as amended May 1, would appropriate \$100,000 from the Energy Resources Programs Account in the General Fund to CEC, for research and development of technology for dismantling and decommissioning nuclear power reactors. This bill is pending in the Assembly Ways and Means Committee.

*SB 2200 (Nielsen)*, as amended May 8, would authorize CEC to make loans to private entities in the exploration and development of geothermal energy, subject to specified conditions, and would extend the maximum repayment period on loans from six to twenty years. Under existing law, CEC is required to submit to the legislature by April 1 of each year a list of projects relating to geothermal resources selected and prioritized by CEC. This bill would require CEC to provide notification for any unforeseen or urgent projects which CEC wishes to approve but which are not included in the April 1 budget list, and would prohibit CEC from executing any funding agreement for any project until at least 30 days after that notification has been made. This bill is pending in the Assembly Natural Resources Committee.

*SB 2210 (Rosenthal)* would require CEC to include in its biennial energy development report an updated report on the benefits of research, development, and demonstration projects for which financing was provided under the Rosenthal-Naylor Act of 1984. This bill is pending in the Senate Committee on Energy and Public Utilities.

*SB 2348 (Rosenthal)* would require CEC, in cooperation with the Public Utilities Commission and the state's electric and gas utilities, to undertake a research, development, and demonstration program to identify and utilize improved technologies and hardware that can mitigate damages to energy utility facilities during periods of natural disasters such as earthquakes, and would appropriate \$500,000 from the Energy Resources Programs Account in the General Account to CEC for primary research contracts for this program. This bill is pending in the Senate Committee on Energy and Public Utilities.

*SB 2541 (Rosenthal)* would create the California Nuclear Power Plant Safety, Health, and Environment Advisory Committee. This bill would require CEC to collect a fee from every publicly-owned utility owning or oper-

ating a nuclear power plant, and to deposit the fees in the Committee Fund created by this bill. This bill is pending in the Senate Committee on Energy and Public Utilities.

The following is a status update on bills described in CRLR Vol. 10, No. 1 (Winter 1990) at pages 146-47:

*SB 539 (Rosenthal)*, as amended June 4, would require CEC, on or before June 30, 1991, to adopt and implement, to the extent feasible, a program of incentives to encourage utilities to maintain and expand their energy conservation and demand side management programs, and would specify related requirements for CEC's incentives program. The bill would require CEC to require one or more utilities to implement specified pilot projects, and on or before June 30, 1993, to adopt, to the extent feasible, a competitive bidding system that allows demand side management programs to compete with energy supply sources to fulfill future utility resource needs. This bill is pending in the Assembly Ways and Means Committee.

*AB 2395 (Sher)*, which would enact the Global Warming Response Act of 1989, is pending in the Senate Appropriations Committee's suspense file.

## RECENT MEETINGS:

At its January 17 meeting, CEC approved a staff request for an investigation into the Los Angeles Department of Water and Power's (LADWP) Harbor Generating Station Repowering Project. CEC ordered evidentiary hearings to determine the validity of LADWP's claim that CEC lacks jurisdiction over this matter and other such projects. The issue of repowering projects, involving the renovation of existing generating facilities, is of increasing importance given the fact that these projects are expected to constitute a majority of utility construction projects in the coming decade.

## FUTURE MEETINGS:

General CEC meetings are held every other Wednesday in Sacramento.

## HORSE RACING BOARD

*Acting Executive Secretary:*  
*Dennis Hutcheson*  
(916) 920-7178

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:

*Trifecta Wagering.* On January 26, CHRB held a public hearing on the proposed addition of section 1979, Title 4 of the CCR, regarding Trifecta parimutuel wagering (selecting horses finishing first, second, and third in that exact order). (See CRLR Vol. 10, No. 1 (Winter 1990) p. 148 for background information.)

CHRB received a significant amount of public comment on this matter, ranging from enthusiastic support to steadfast opposition. Those in support of the Trifecta noted that it is a marketing tool that would enhance the appeal of racing, provide more jobs, and may help increase the handle. Those opposed to the Trifecta expressed concern that no other exotic wager had been surrounded by more innuendo, investigations, or scandals as has the Trifecta. Those opposed also noted that the present regulatory language is unfair to the quarter horse industry, and argued that the tim-



ing is bad to commence Trifecta wagering.

Because of the wide range of opinions offered at the public hearing, this matter was withdrawn from the calendar by CHRB Chair Chavez and will be reconsidered at a future date.

**Claiming Restrictions.** Also on January 26, CHRB held a public hearing on proposed amendments to section 1663, Title 4 of the CCR. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 148 for background information.) Section 1663 currently provides that a horse claimed out of a claiming race shall be eligible to race at any racing association within the state of California immediately after being claimed, provided that it shall not be eligible to start in any other claiming race for a period of 30 days exclusive of the day such horse was claimed for less than 25% more than the amount for which it was claimed. The section also provides that no such claimed horse is eligible to race in any state other than California until the close of the meeting where it was claimed, except to race in a stake race. The proposed amendments would repeal this restriction, and would provide that the remaining provisions of section 1663 do not apply to standard-bred horses.

Following the receipt of public comment on this matter, CHRB unanimously adopted these proposed changes and is preparing the rulemaking file for submission to the Office of Administrative Law (OAL).

**Postmortem Examinations.** On March 9, CHRB filed notice of its intent to amend section 1846.5, Title 4 of the CCR, relating to postmortem examinations. Currently, section 1846.5 addresses postmortems, but the existing rule is not enforceable due to a lack of facilities at racetracks to perform complex postmortems. The regulatory change would allow the Board to direct that a postmortem examination at a Board-designated diagnostic laboratory be made to determine the injury or sickness which resulted in euthanasia or natural death. Test samples would be taken and also sent to a diagnostic laboratory designated by the Board for testing for foreign substances or their metabolites and natural substances at abnormal levels. A written copy of the postmortem examination would be filed with CHRB's Executive Secretary and Equine Medical Director. The proposed regulatory language provided that costs of transportation and postmortem would be paid from revenues generated from owners' license fees.

Also on March 9, CHRB published a notice of its intent to amend section

1481(b)(3), Title 4 of the CCR, relating to occupational licenses and fees. Under the proposed regulations, all owners' license fees will be increased from \$150 to \$250 in order to fund the postmortem examinations on race horses.

At an April 27 public hearing on these proposed regulatory changes, CHRB tentatively approved section 1846.5 to provide that the postmortem examinations be done by Board-designated diagnostic laboratories for all horses expiring at a race track or Board-approved auxiliary training facility. However, CHRB rejected the proposed language assigning the costs of the postmortem program to owners' license fees. As a result, no action was taken on the proposed amendments to section 1481(b)(3). CHRB took no formal action on the proposed amendments to section 1846.5, but referred the matter to the Medication Committee for further modifications, in light of the issues raised during the public hearing.

CHRB's Medication Committee subsequently modified amended the proposed changes to section 1846.5, and the new version will be discussed at a future meeting.

**Coupling of Horses.** On April 6, CHRB filed notice of its intent to amend section 1606, Title 4 of the CCR, relating to the coupling of horses. Currently, the coupling of horses takes place only when horses are owned in whole or in part by the same person(s). The amended rule would state that two or more horses shall be coupled as a single wagering interest and as an entry when such horses are owned in whole or in part by the same person(s), or are trained by the same trainer. CHRB held a public hearing on this proposed regulatory amendment on May 25. Members of the public present at the hearing who offered testimony were unanimously in opposition to the proposal. As a result, CHRB rejected the proposed amendments to section 1606.

**Test Samples.** On May 4, CHRB published notice of its intent to amend section 1859, Title 4 of the CCR, relating to drug test samples. The regulatory amendments would specify that all urine samples not found by the official laboratory's screening tests to contain a stimulant, depressant, local anesthetic, or narcotic substance, whether natural or synthetic, or a metabolite or analog thereof, shall be discarded immediately. The proposed language also provides that CHRB's Executive Secretary and Equine Medical Director shall immediately be notified by the official racing laboratory of specified findings.

Also on May 4, CHRB published

notice of its intent to amend section 1858, Title 4 of the CCR, to reduce the number of test samples taken from race horses. The primary purpose of this reduction would be to allow more extensive testing on the number of samples taken, thus providing for a more effective testing program.

CHRB was scheduled to hold a public hearing on these proposed changes at its June 22 meeting in Cypress.

**Horsemen's Split Sample.** On May 4, CHRB published notice of its intent to add section 1859.25 to Title 4 of the CCR, regarding the horsemen's split sample program. Section 1859.5 would detail the procedure for collecting and ensuring the security and storage of the horsemen's split sample, confidential notification, the release of the sample to the Board-approved laboratory, and the procedure for managing the findings. CHRB was scheduled to hold a public hearing on this proposed change at its June 22 meeting in Cypress.

**Wagering Prohibition Amendments Withdrawn.** In November, CHRB formally adopted an amendment to section 1969, Title 4 of the CCR, which would add satellite wagering facility supervisors and assistant satellite wagering facility supervisors to the list of persons prohibited from wagering on the results of a race while on duty at a race meeting or satellite wagering facility. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 147 for background information.) After submitting the proposed amendment to OAL for approval, CHRB withdrew the rulemaking package and has since revised the amendment. The new version of this amendment has not yet been submitted to OAL.

**Other Regulatory Changes.** The three rulemaking packages rejected by OAL in October are being revised by CHRB. (See CRLR Vol. 10, No. 1 (Winter 1990) pp. 147-48 for background information.) The amended regulations, relating to satellite wagering, are expected to be completed and re-noticed in the near future.

#### LEGISLATION:

**AB 2640 (Clute).** Existing law limits any association licensed to conduct quarter horse racing in the southern zone to no more than 15 weeks of that racing. This bill deletes that limitation.

Existing law requires an association other than a fair which conducts a quarter horse racing meeting, except a mixed breed meeting, to pay an amount equivalent to 2.5% of the portion deducted from the parimutuel pool for purses to the horsemen's organization contracting with the association with respect to the



## REGULATORY AGENCY ACTION

conduct of racing meetings for administrative expenses and services rendered to horsemen. This bill would, instead, provide for the payment of an amount equal to the association's expenses, but not to exceed 3% of the portion deducted from the parimutuel pool.

This bill also requires CHRB to conduct an audit of the financial books and records of horsemen's organizations that receive funds pursuant to designated provisions of the Horse Racing Law. This bill was signed by the Governor (Chapter 251, Statutes of 1990).

**SB 2356 (Maddy)** revises and restates, with technical changes, various satellite wagering provisions. This bill was signed by the Governor on June 11 (Chapter 131, Statutes of 1990).

**AB 3260 (Floyd)**, which prohibits a veterinarian from administering medications to any horse entered in the same race in which a horse owned or trained by that veterinarian is entered, was signed by the Governor (Chapter 290, Statutes of 1990).

**AB 2671 (Floyd)**, as amended May 22, would revise and recast the provisions of law relating to CHRB's authority to license and regulate stewards and racing officials. This bill would also repeal the current requirement that when satellite wagering facilities are receiving a live audiovisual signal of a horse racing meeting, CHRB must designate a steward at the track where the meeting is being conducted to monitor the satellite wagering facilities at the track and at all facilities receiving the signal. The bill would require CHRB to set forth requirements for the position of satellite facility supervisor for all satellite wagering facilities operated by the state or on public land. The satellite facility supervisor would be required to monitor other licensees at the satellite wagering facility. This bill is pending in the Senate Appropriations Committee.

**AB 2546 (Clute)**. Pursuant to section 19612 of the Business and Professions Code, with respect to quarter horse meetings, all funds remaining from certain deductions after distribution of the applicable license fee are required to be distributed 55% as commissions and 45% as purses. As amended June 13, this bill would raise the amounts distributed as purses to 46% in 1991, 47% in 1992, 48% in 1993, 49% in 1994, and 50% in 1995 and thereafter, and would make corresponding reductions in the amount distributed as commissions during each of those years. This bill is pending in the Senate Governmental Organization Committee.

**AB 2676 (Floyd)**. Section 19615 of the Business and Professions Code

requires CHRB to provide a method to estimate the aggregate handle for each association's proposed racing meeting and provides that estimates may be revised during the course of a meeting. This bill would authorize an association to revise the estimate for the aggregate handle during a meeting if CHRB determines that the revision is necessary. This bill is pending in the Senate Governmental Organization Committee.

**AB 2680 (Floyd)** would require CHRB to adopt amenity standards for satellite wagering facilities, as prescribed, and would require those facilities to provide, as a condition of licensure, accommodations which meet those standards. This bill is pending in the Senate Governmental Organization Committee.

**AB 2706 (Floyd)**, which would require CHRB to develop and maintain a "California Racehorse Registry" for the purpose of registering all racehorses, as defined, and would require CHRB to charge the owner of the racehorse a fee to register the racehorse, is pending in the Senate Governmental Organization Committee.

**AB 2826 (Floyd)**, as amended June 13, would create the California Horseracing Industry Commission, which would be responsible for promoting the horseracing industry and for conducting market research related to horseracing. The bill would authorize the Commission to establish and levy assessments, and would authorize the expenditure of those funds for purposes of carrying out the bill. This bill is pending in the Assembly inactive file.

**AB 3025 (Floyd)**, as amended April 3, would require CHRB to allocate racing days to associations on the basis of the quantifiable assurances from breeder's organizations that a sound, healthy inventory of racehorses is available to meet the needs of the racing meetings. This bill is pending in the Senate Governmental Organization Committee.

**AB 3026 (Floyd)**, as amended March 26, would require CHRB to establish a coordinated and uniform policy on the use of fair racing facilities for the training and stabling of horses during periods in which the facilities are not conducting live racing, and would prohibit CHRB from approving any racing meeting at a fair facility if the fair facility does not comply with that policy. This bill is pending in the Senate Governmental Organization Committee.

**AB 3027 (Floyd)** would require that 90%, instead of all, of the redistributable money in a parimutuel pool from unclaimed tickets be distributed 126

days, instead of 120 days, after the close of the meeting; and that 140 days after the close of the meeting, any remaining redistributable money is to be distributed equally between CHRB and the horsemen's welfare fund. This bill is pending in the Senate Governmental Organization Committee.

**SB 1824 (Maddy)**. Existing law requires that, from horse racing revenues received by CHRB, pursuant to designated provisions, \$265,000 plus an amount equal to 1% of the gross amount of money handled in the annual parimutuel pool be paid into the Fair and Exposition Fund. This bill would require that the percentage to be deposited in the fund be based on the gross amount of money handled in the annual parimutuel pool generated within this state, or the maximum amount received by the state from the parimutuel pool of a racing meeting held in this state, whichever is less. This bill has been enrolled to the Governor.

**SB 1974 (Maddy)**. Existing law requires CHRB to establish a committee of at least two Board members to meet at least quarterly with the stewards' representatives to discuss the recommendations of the stewards, and permits representatives of racing associations to attend and participate in these meetings when items directing affecting the associations are discussed. As amended June 6, this bill would permit representatives of horsemen to attend and participate in those meetings when items directing affecting the horsemen are discussed. This bill would also revise steward qualification requirements that pertain to experience in the horse racing industry. This bill is pending in the Assembly Governmental Organization Committee.

**SB 2127 (Maddy)**, as amended May 30, would require that a postmortem examination be conducted on every horse which is destroyed after suffering a breakdown on a racetrack while in training or in competition and every other horse which expires while stabled on a racetrack to determine the injury or sickness which resulted in euthanasia or natural death. This bill is pending in the Assembly Governmental Organization Committee.

**SB 2624 (Maddy)**, as amended June 12, would authorize CHRB to license three racing theaters, as pilot projects, to conduct wagering on horse racing meetings held in the state. This bill is pending in the Assembly Governmental Organization Committee.

The following is a status update on bills described in CRLR Vol. 10, No. 1 (Winter 1990) at page 148:



*AB 425 (Floyd)*, which would have repealed 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, failed passage in the Assembly on January 25.

*AB 170 (Floyd)*, which would require CHRB 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)*, which would require that, from the revenue received by CHRB, 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 UC Davis for an equine drug testing laboratory, is pending in the Assembly Governmental Organization 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 CHRB 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.

## RECENT MEETINGS:

At its January 26 meeting in Monrovia, Executive Secretary Leonard Foote announced his retirement, effective April 10. Board Chair Chavez announced that CHRB's nationwide search for a new Executive Secretary would begin immediately, and that Assistant Secretary Dennis Hutcheson would act as interim Executive Secretary should the position not be filled by April 10.

Also in January, CHRB approved a resolution limiting the authority of its staff members to perform acts on behalf of CHRB. (See CRLR Vol. 10, No. 1 (Winter 1990) pp. 148-49.) The resolution limits the authority of CHRB staff to performing only those acts which do not require the formulation, amendment, or modification of policy; and prohibits staff from signing, executing, authorizing, or approving any specified document, unless specifically authorized by a majority of the Board members at a regularly noticed public meeting.

At its April 27 meeting in Los Angeles, CHRB discussed guidelines for penalties to be imposed for certain

medication violations. These guidelines were previously adopted by the Board on November 21, 1988, as recommendations and guidelines to the stewards. CHRB unanimously adopted these guidelines as proposed regulatory amendments. The Board was scheduled to hold a hearing on these proposed amendments at its July meeting.

## FUTURE MEETINGS:

August 24 in Del Mar.  
September 28 in San Mateo.  
October 26 in Monrovia.  
November 16 in Los Angeles.

## 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 resolution programs. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 149; Vol. 9, No. 4 (Fall 1989) p. 132; and Vol. 9, No. 3 (Summer 1989) pp. 121-22 for complete background information.) The final fee collection for the last fiscal year was

\$182,000. The Board is in the process of collecting data from the manufacturers as to the number of vehicles sold last year, so as to assess and invoice the manufacturers for next year.

## LEGISLATION:

*AB 2604 (Moore)*, as amended May 31, would provide that, in addition to any other right to revoke an offer or rescind a contract, the buyer of a motor vehicle has the right to cancel a motor vehicle contract or offer, as specified, until midnight of the first business day after the day on which the buyer signs a motor vehicle contract or offer which complies with specified requirements. This bill, which is a reintroduction of last year's AB 552 (Moore), is pending in the Senate Judiciary Committee.

*AB 3190 (Tanner)*, as amended May 3, would require a specified disclosure to the buyer of a new vehicle by both the manufacturer and the dealer regarding the ability of the vehicle to be operated with tire chains. This bill is pending in the Senate Transportation Committee.

*AB 3515 (Bane)*. Existing law prescribes the procedures for a hearing and decision by NMVB on a petition to terminate the franchise of a motor vehicle dealer, or resolve the protest of a franchisee. The secretary of the Board is authorized to dismiss a protest for failure to comply with discovery without a showing of good cause. Also, the parties may submit a proposed stipulated decision and order of the Board, and the proposed stipulated decision and order are deemed to be adopted by the Board unless any member of the Board objects thereto.

As amended April 26, this bill would require substantial justification for the failure to comply with discovery procedures, and would authorize the secretary of the Board to require a party who fails to comply with discovery procedures, authorized by the Board, to pay the attorneys' fees and costs of the party who successfully makes or opposes a motion to compel enforcement of discovery. The bill would also revise the prescribed procedures with respect to a stipulated decision and order to resolve a protest filed by a franchisee in which the parties stipulate that good cause exists for the termination of the franchise, by eliminating the requirement for further proceedings by the Board to terminate the franchise. This bill is pending in the Senate Transportation Committee.

*AB 3796 (Bane)*. Existing law, with specified exceptions, makes residence addresses in the records of the Department of Motor Vehicles confiden-