



REGULATORY AGENCY ACTION

ance for education and support programs, grants for demonstration projects of new and existing conservation tillage and harvesting techniques, and low-interest loans for the purchase of equipment and services for energy conservation and the development of demonstration projects. Applicants for assistance under the program are screened by a selection committee made up of CEC staff, University of California personnel, California Department of Food and Agriculture staff, and independent agricultural experts. Thirty-two grants totalling \$1,575,000 and eighteen loans totaling \$1,428,365 were awarded. Technical assistance is arranged through the University of California, which also co-funds the technical assistance portion of twelve of the projects which are receiving grants.

FUTURE MEETINGS:

General CEC meetings are held every other Wednesday in Sacramento.

HORSE RACING BOARD

Secretary: Leonard Foote
(916) 920-7178

The California Horse Racing Board (CHRB) is an independent regulatory board consisting of seven members. Each member serves a four-year term and receives no compensation other than expenses incurred for Board activities.

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.

The Board has jurisdiction and power to supervise all things and people having to do with horse racing upon which wagering takes place. 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. (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 percent-

age.) 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.

The Board licenses horse racing tracks and allocates racing dates. It also has regulatory power over wagering and horse care.

MAJOR PROJECTS:

Retroactive Approval of PRA Application. At its February 24 meeting in Monrovia, the Board heard the request of the Pacific Racing Association (PRA) to amend its application to conduct a horse racing meeting to include Sunday racing, pursuant to section 1433, Title 4 of the California Code of Regulations (CCR).

PRA's original application indicated that racing would not occur on Sundays because the Peninsula Horse Racing Association (PHRA) conducts a competing meeting on Sundays. However, because PHRA indicated that it was vacating the dates previously run at the Bay Meadows race track at night, PRA requested to assume that day schedule.

At the February meeting, PRA indicated it wished to amend its license—particularly because it had been racing the last four Sundays without Board approval. PRA claimed that the request had been placed on CHRB's January meeting agenda, but because the meeting was cancelled, the Board could not rule on it. The PRA justified its action because it historically asked to race on Sundays and was consistently turned down because of PHRA's meet. When PHRA vacated its meet, PRA assumed it could race on Sundays and believed that the Board would have allowed the amendment at the January meeting if the meeting had not been cancelled.

Upon hearing this, Commissioner Deats made a motion to fine PRA \$10,000 for racing on Sundays without a license. There was no second and the motion died. PRA's request to race Sunday was then granted by the Board without a fine. Commissioner Deats commented that he did not like the precedent the Board was setting by not fining PRA for its action. The Board justified its action by stating that had there been a January meeting, the amendment to the license would have been allowed at that time.

Proposed Regulatory Changes. At the February meeting, the CHRB conducted a public hearing and subsequently adopted new section 1472, Title 4 of the CCR, which would define a new occupa-

tional license classification of Satellite Facility Supervisor. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 100 for further information.) The rulemaking package was submitted to the Office of Administrative Law (OAL), but was withdrawn by the Board for further development.

At the same hearing, the Board received comments on proposed changes to sections 2056-2060 of its regulations in Title 4 of the CCR. (See CRLR Vol. 9, No. 1 (Winter 1989) pp. 100-01 for background information.) At the hearing, many complaints were voiced over the capitalization rate required for satellite companies under proposed section 2059. CHRB decided to delay adoption of the proposed changes until the public comments could be considered by its Parimutuel Operations Committee.

New Drug Testing Procedure Under Fire. CHRB recently revealed that horses trained by D. Wayne Lukas and Laz Barrera tested positive for cocaine. Using what it considers improved techniques for detection of illegal substances, CHRB said a urine sample taken from Gene Klein's two-year-old colt Crown Collection—trained by Lukas—was positive for cocaine. The sample had been taken six months earlier and frozen, after Crown Collection won the seventh race on August 29 at Del Mar. The test found approximately one-billionth of one gram of cocaine. CHRB Secretary Leonard Foote announced in a televised interview that the amount was small enough that it could have gotten into the horse through being on the hands of stable workers—implying that the horses were not intentionally drugged by the trainers. Mr. Klein believes that the sample was contaminated. He pointed out that the barns where the post-race testing is conducted are dirty and readily accessible to the public. CHRB plans to conduct a second test on the samples. Formal accusations were filed in March against Lukas and Barrera. As the trainers of record, each is responsible for the condition of the horse at all times under racing's "absolute insurer" rule.

LEGISLATION:

AB 82 (Floyd) would amend existing law which requires CHRB to provide a method to estimate the aggregate handle for each association's proposed 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 Assembly Govern-



mental Organization Committee.

AB 169 (Floyd) would define the terms "barrel race," "match jumping race," and "steeplechase race" for purposes of the Horse Racing Law. This bill would authorize the California Exposition and State Fair, a county fair, and a district agriculture association fair to provide mixed breed racing with pari-mutuel wagering which includes barrel races, match jumping races, and steeplechase races. It would authorize all recognized breeds of horses to compete in barrel races, match jumping races, and steeplechase races. *AB 169* is pending in the Assembly Ways and Means Committee.

AB 170 (Floyd) 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, including analysis and recommendations concerning the worker safety impacts of improvements in racetrack design, jockey equipment, racing procedures, and track and facility maintenance. This bill is pending in the Assembly Governmental Organization Committee.

AB 172 (Floyd) would require every satellite wagering facility to provide accommodations for families with children including play areas and equipment, changing rooms, and materials and personnel for teaching children about horses and racing. This bill is pending in the Assembly Governmental Organization Committee.

AB 176 (Floyd) would delete the requirement that live audiovisual signal of night harness or quarter horse races in the central zone be offered to satellite wagering facilities in the northern zone during periods of the day when there is no night racing in the northern zone. The bill also authorizes the transmission of live audiovisual signal of night harness, quarter horse, and mixed breed races in the northern zone to satellite wagering facilities in the central and southern zones. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 101 for background information.) *AB 176* is pending in the Assembly Governmental Organization Committee.

AB 199 (Floyd) would revise the provisions relating to the authority of the Board to license and regulate stewards and racing officials, as defined. The bill would create a Stewards' Committee to advise the Board on matters relating to stewards and racing officials. The Committee would consist of seven persons selected by the Board, with one Board member and six persons representing specified fields of horseracing.

The bill would also delete the requirement that when satellite wagering facili-

ties are receiving a live audiovisual signal, the Board must designate a steward at the track where the meeting is being conducted to monitor the satellite wagering activities at the track and at all facilities receiving the signal. Instead, the bill would require the Board 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. *AB 199* is pending in the Assembly Ways and Means Committee.

AB 216 (Floyd) would require the Board to establish an information pool with its counterpart regulatory agencies in other states in order to share information concerning the background of applicants for the various licenses required by the Board. The bill also requires the Board to establish enforcement policies and priorities for its staff in order to maximize the protection of the sport, and to annually transmit these policies and priorities to the Joint Legislative Audit Committee for review. This bill is pending in the Assembly Ways and Means Committee.

AB 347 (Floyd) would amend section 19596.6 of the Business and Professions Code to require license fees distributed to the state from wagers at satellite wagering facilities to be increased by 2/3 of 1% for the 1989-90 fiscal year and each subsequent fiscal year in which the total revenues from horseracing received by the Board do not exceed \$115,000,000 per year. This bill is pending in the Assembly Ways and Means Committee.

SB 56 (Maddy) would allow the Board to authorize the satellite wagering facility at the 22nd District Agricultural Association (Del Mar), for a three-year pilot period, to conduct satellite wagering on races conducted in the northern zone at Bay Meadows and Golden Gate Fields, in addition to the satellite facility wagering on races conducted in the southern and central zones already allowed by law. This bill is pending in the Senate Governmental Organization Committee.

SB 1294 (Maddy) would require that 6% of the handle from wagers of harness, quarter horse, Appaloosa, mixed breed and fair meetings at satellite wagering facilities or the amount of actual operating expenses, as determined by the Board, be distributed to a specified organization for operating the audiovisual signal system. Current law requires the Board to determine the lesser of the two amounts. This bill is pending in the

Senate Governmental Organization Committee.

LITIGATION:

In *California Standardbred Sires Stakes Committee, Inc. v. California Horse Racing Board*, Sacramento Superior Court Judge Anthony DeChristoforo, Jr., issued a writ on January 27, commanding the Board to comply with the harness racers' wishes or demonstrate in court why it had not. The lawsuit filed in December claims that CHRB acted improperly on October 28 when it approved a license for a 17-week meet rather than a 22-week harness race meet at Los Alamitos Race Track (LART).

The options in the writ were: (1) that CHRB grant five additional weeks of harness racing by placing such a requirement as a condition of Hollywood Park Operating Company's (HPOC) approved license to conduct a harness racing meeting at LART; (2) that CHRB take other action to provide an additional five weeks of harness racing to take place at LART; (3) that CHRB show cause why it has not taken action as set forth in Options (1) and (2). The Board held a special meeting on February 3 to discuss its response to the court. After discussion, the Board declined to comply with the court order—deciding instead to go to court in its battle with California Standardbred Sires Stakes Committee, Inc. (CSSSC).

The harness racehorse owners and CSSSC contend that several Board members failed to disclose conflicts of interest and were influenced by favors they received from HPOC. State political reform law requires the Governor-appointed Board members to abstain from voting on issues directly relating to people or corporations from whom more than \$250 was received. The lawsuit alleges that four Board members—Chair Leslie M. Liscom, Benjamin Felton, Henry Chavez, and Rosemary Ferraro—violated state regulations by failing to disclose free admissions and complimentary meals worth more than \$250 each from Hollywood Park, the Los Angeles Turf Club, or both. The suit also claims that Board member Raymond T. Seeley has received more than \$250 worth of free rent for a trailer that he parks on the grounds of LART. HPOC Chief Executive Officer Marjorie Everett has stated that any favors such as free admission, meals, and drinks were merely traditional gestures of courtesy toward Board members.

During testimony in the case, it was revealed that Mr. Liscom is an executive and small percentage owner in an insur-



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ance firm that is paid more than \$1 million in annual premiums by LART. A spokesperson for the state Fair Political Practices Commission (FPPC) said in mid-March that the FPPC is investigating the relationship between Board members and HPOC.

At its February 24 meeting, the Board was asked by HPOC to amend its approval of the HPOC harness application and allocate those five weeks for the conduct of a quarter horse racing meeting in lieu of any harness racing meeting. Chair Liscom withdrew from discussion or voting on the matter; thus, Vice-Chair Chavez introduced the item into discussion.

Because CSSSC had obtained a writ from the court preventing the Board from deciding this issue until the court rules on the conflict of interest problems, the Board did not vote on the item. Instead, the Board decided to hold a special meeting to vote on HPOC's request to amend its application as soon as the court reaches a decision.

HPOC and the quarter horse owners expressed concern over the time delay of the Board's decision on HPOC's request. If granted, the quarter horses would start racing on March 31. HPOC stated it needs advance time for advertising and general preparation. The Board promised to be as accommodating as legally possible in this issue.

RECENT MEETINGS:

On February 24, the CHRB moved to hold over until its March 31 meeting its approval of licenses to operate as extended wagering facility for 22 locations.

FUTURE MEETINGS:

June 23 in Cypress.
July 27 in La Jolla.

NEW MOTOR VEHICLE BOARD

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

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.

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:

Proposed Regulatory Amendments. The NMVB has formally proposed amendments to its regulations contained in Title 13 of the California Code of Regulations. (See CRLR Vol. 9, No. 1 (Winter 1989) pp. 101-02 for detailed background information.) The Board proposes to clarify the language of its regulations to be consistent with its enabling statute. In addition, the Board recommends that section 579 regarding subpoena authority be moved to Article 1 of the Board's regulations pertaining to appeals and petitions, and renumbered as section 551.2. The Board also recommends the simplification of the procedures for petitions filed pursuant to Vehicle Code section 3050(c). A hearing on these modifications was scheduled for May 5.

LEGISLATION:

AB 552 (Moore) would give 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 third business day after signing the contract. AB 552 is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

SB 582 (Green) would delete the separate provisions relating to lessor-retailers, and provide for their licensing and regulation under the same provisions which apply to dealers. The bill would also create the new categories "dealer branch" and "lessor-retailer branch", and similarly provide for their licensing and regulation. SB 582 is pending in the Senate Transportation Committee.

SB 587 (Doolittle) would make it unlawful for any person to lease unsafe, improperly equipped, or unsafely loaded vehicles to a highway carrier, as defined, or to hire a highway carrier to transport any unsafe vehicle, vehicle not equipped as required, or unsafely loaded vehicle, thereby imposing a state-mandated local program by creating a new crime. This bill would also impose strict liability for death or injury, and highway and bridge damage resulting from engaging the ser-

vices of highway carriers to transport loads in violation of size and weight requirements. SB 587 is pending in the Senate Committee on Transportation.

RECENT MEETINGS:

The Board meeting scheduled for January 26 was cancelled because there was not a quorum.

FUTURE MEETINGS:

To be announced.

BOARD OF OSTEOPATHIC EXAMINERS

Executive Director: Linda Bergmann
(916) 322-4306

In 1922, California voters approved a constitutional initiative which created the Board of Osteopathic Examiners (BOE). BOE regulates entry into the osteopathic profession, examines and approves schools and colleges of osteopathic medicine and enforces professional standards. The 1922 initiative, which provided for a five-member Board consisting of practicing osteopaths, 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 September 1988 include the issuance of 1,330 active licenses and 498 inactive licenses to osteopaths.

At its January 10 meeting, BOE re-elected Bryn Henderson, DO, as President and Kenneth C. Stahl, DO, as Vice President. Robert M. Acosta, DO, was elected Secretary-Treasurer.

MAJOR PROJECTS:

Possible Regulatory Change. At its January 10 meeting in Sacramento, BOE again discussed the possibility of lowering the maximum fee that may be charged for a fictitious name renewal permit fee. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 103 for background information.) In the future, BOE may develop regulatory language to lower the limit to an amount which would only cover costs incurred by the Board in renewing the permit.

RECENT MEETINGS:

At its January 10 meeting, BOE discussed the possibility of amending existing statutory language requiring it to meet in Sacramento on the first Tuesday in January to any time during the first three months of the year. Board members felt that this statutory change would