



Resources.

SB 1823 (Rosenthal), which would have required the Commission to prepare a report analyzing public investments in new electric transmission lines and electric power purchases; *SB 2144 (Rosenthal)*, which would have required the CEC to establish guidelines for reimbursement of intervention expenses in certain CEC hearings and proceedings; and *AB 2887 (Chandler)*, which would have expanded the definition of "electric transmission lines" under the CEC's authority, all died in committee.

SB 2431 (Garamendi) would require the CEC, in consultation with the Public Utilities Commission, to prepare a report on the projected need for additional electrical transmission rights-of-way during the next five, twelve, and twenty years. This bill passed the Senate on May 27 and is pending in the Assembly Committee on Utilities and Commerce.

SB 2434 (Alquist) would require the CEC's biennial electricity report to include specified additional information. This bill was placed in the inactive file at the author's request.

RECENT MEETINGS:

In April, the CEC awarded \$2,409,804 in grant funding to five schools in the Rialto Unified School District to fund the purchase and installation of energy efficient air conditioning equipment and insulation materials. The grant program was implemented under AB 694 (Hauser), 1986 legislation which provided \$30 million in Petroleum Violation Escrow Account (PVEA) funds to finance energy-efficient air conditioning and insulation in schools which conduct year-round classes due to severe overcrowding. The PVEA funds are a result of negotiated settlements and court judgments based upon petroleum overcharges during the period from September 1973 to January 1981. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 91 for background information on the PVEA.)

Also in April, the Commission discussed comments prepared by its Conservation Division and the General Counsel's office, with oversight by the Efficiency Standards Committee, for submission to the U.S. Department of Energy (DOE) regarding proposed federal regulations designed to implement the National Appliance Energy Conservation Act of 1987. The regulations would establish procedures for manufacturers' certification of (1) compliance with the efficiency standards established in and pursuant to the National Appliance Energy Conservation Act of 1987;

(2) enforcement of those standards; and (3) petitions related to preemption of state appliance efficiency standards.

The comments discussed at the meeting reflect the fact that a meaningful compliance and enforcement program must accomplish two goals. The program must guarantee that all certified models actually do meet the applicable standards, and the program must also ensure that uncertified models are not sold. Commission members voiced concern that this latter goal is not adequately addressed in the proposed DOE regulations. It was suggested that DOE publish appliance directories which would allow consumers to determine whether a model meets the standards. The DOE should also carry out a program of periodic spot checking at wholesale and retail outlets.

FUTURE MEETINGS:

General CEC business 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. 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 percentage.) 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:

Governor Reverses OAL on Simulcast Wagering Regulations. On March 17, the Governor reversed the Office of Administrative Law's (OAL) third disapproval of CHRB's simulcast wagering regulations (sections 2056 through 2061, Title 4, California Code of Regulations). The regulations pertain to the intrastate simulcasting of horse races for wagering at extended facilities; the permitting of and standards for extended wagering facilities and simulcast operators; and the criteria for approval of interstate simulcasts. (See CRLR Vol. 8, No. 2 (Spring 1988) pp. 116-17; Vol. 7, No. 4 (Fall 1987) p. 103; Vol. 7, No. 3 (Summer 1987) p. 128; and Vol. 7, No. 2 (Spring 1987) p. 101 for complete background information.)

OAL had rejected the proposed regulations for the third time on December 3, 1987, largely because, through the passage of SB 14 (Maddy) (Chapter 1273, Statutes of 1987), the legislature amended the statutes authorizing simulcast wagering between the time the Board published, held hearings on, and adopted the proposed regulations (July 30, 1987), and the time OAL reviewed them for the third time.

The Governor found that SB 14 simply reenacted much of the previously existing law regarding simulcast wagering. Although it did expand simulcast wagering to greater areas of the state, the new statutory scheme largely continued the existing scheme "without interruption, with all accrued rights and liabilities." The Governor stated that CHRB should not have been expected to consider the then-pending SB 14 in its July 1987 determination on the proposed regulations, and found no evidence to indicate that CHRB somehow "manipulated the timing of the rule-making proceeding in an effort to avoid the possible impact of legislative changes."

The new regulations were filed with the Secretary of State in late March and became effective April 22.

Unlimited Sweepstakes and Special



REGULATORY AGENCY ACTION

Sweepstakes Regulations Approved. At its February 18 and March 25 meetings, the Board considered and adopted amendments to sections 1959.5 (Special Sweepstakes) and 1976 (Unlimited Sweepstakes), Article 18, Title 4 of the CCR. Amended section 1959.5 provides an alternate method for the distribution of the Special Sweepstakes (Pick Six) pool; and amended section 1976 authorizes racing associations to be able to specify certain dates in advance when Unlimited Sweepstakes (Pick Nine) will be paid. The CHRB adopted the proposed amendments at its March meeting; on May 16, the OAL approved both proposed amendments.

"Select Four" Regulations Set for Hearing. On July 29, the CHRB was scheduled to hold a public hearing on its proposal to add section 1978, Article 18, Title 4 of the CCR. Section 1978 proposes an additional method of parimutuel wagering called the "Select Four," whereby a selection would be made for win only in each of four races designated by the racing association. The net amount in the parimutuel pool would be distributed among the holders of tickets which correctly designate the most winners. This new form of exotic wagering was proposed by the Los Angeles Turf Club, Inc., operator of thoroughbred racing at Santa Anita Park in Arcadia.

Approval of Northern California Simulcast Agreement. Also at its March 25 meeting, the CHRB unanimously approved the Simulcast Wagering Operational Agreement between the California Authority of Racing Fairs (CARF), Simulcast Enterprises, Inc. (a joint venture which operates simulcast wagering in northern California), and the Northern California Satellite Wagering System Board (NCSWSB). Prior to approval of the agreement, the charter for the governing board of the NCSWSB was formalized and executed. As a result, NCSWSB is the organization authorized to recognize satellite wagering operators in northern California pursuant to section 19596.4(c) of the Business and Professions Code. Under the statute, the CHRB must supervise the NCSWSB, which has the right by majority vote to terminate Simulcast Enterprises, Inc. as the operator of the satellite wagering system in northern California, and enter into negotiations with someone else (with CHRB's approval). NCSWSB is comprised of members from horsemen's organizations, race track representatives, and satellite fairs.

Approval of Southern California Off

Track Wagering, Inc. Also in March, the CHRB approved Southern California Off Track Wagering, Inc. (SCOTWINC) as the organization formed to operate the audiovisual signal system in southern California under Board supervision. SCOTWINC is a limited partnership in which all racing associations are limited partners. The general partner is Southern California Off Track Wagering Limited, the governing board which executes day-to-day operations and forms contracts with entities such as satellite operations. SCOTWINC is also the organization which will administer off-site stabling funds pursuant to subsections (g) and (h) of section 19596.6 of the Business and Professions Code.

LEGISLATION:

AB 3933 (Hill), as amended June 21, would amend section 19533 of the Business and Professions Code, which presently provides that any license granted to an association other than a fair shall be only for one type of racing (thoroughbred, harness, or quarter horse racing), except that the CHRB may, by regulation, authorize the entering of thoroughbred horses in quarter horse races at a distance of 870 yards at quarter horse meetings, mixed breed meetings, and fair meetings. This bill would prescribe the amounts required to be paid by the association which conducts the meeting to the horsemen's organization that represents thoroughbred horsemen at the meeting.

The bill would also require, for races with both quarter horses and thoroughbreds, that any moneys from unclaimed tickets which are paid to a welfare fund established by a horsemen's organization be divided between the thoroughbred organization welfare fund and the quarter horse organization welfare fund based on the number of thoroughbreds and quarter horses in the race. This bill passed the Assembly on June 9 and is pending in the Senate Governmental Organization Committee.

AB 4085 (Leslie), which would require that CHRB members be selected from both the northern and southern areas of California, was referred to interim study by the Assembly Committee on Governmental Organization.

AB 1010 (Bane), which authorizes the distribution of parimutuel harness racing purses for the purposes of an award program for the owners, breeders, and stallion owners of winning standardbred horses, has been signed by the Governor (Chapter 19, Statutes of 1988).

AB 3162 (Floyd), as amended June

22, would repeal the Board's authority to license and regulate stewards and instead grant this authority to a stewards' committee which the bill would create. The committee would consist of seven persons selected by the CHRB, with one person who is a member of the Board and six persons who represent specified fields of horse racing. The committee would administer applicants for license as a steward, could overrule a steward's decision under specified circumstances, and would contract with stewards to perform the duties of stewards at horse racing meets. This bill passed the Assembly on April 28 and is pending in the Senate Committee on Governmental Organization.

(For background information on this issue, see *supra* agency report on OFFICE OF THE AUDITOR GENERAL.)

The following is a status update on bills discussed in detail in CRLR Vol. 8, No. 2 (Spring 1988) at page 118:

AB 523 (Condit), which would change the requirement that every racing association which conducts a racing meeting at a fair must deduct an additional 1% from the parimutuel pools for deposit in the Fair and Exposition Fund, is pending in the Senate Committee on Governmental Organization.

AB 3161 (Floyd), which would require CHRB to establish an information pool with its counterpart regulatory agencies in other states in order to share information concerning the background of applicants for various CHRB licenses, passed the Assembly on May 12 and is pending in the Senate Committee on Governmental Organization.

AB 3402 (Floyd), which would have required the Department of Finance and the Legislative Analyst to jointly perform an analysis of the fiscal impact of legalized sports wagering in California, failed passage on the Assembly floor.

AB 3136 (Floyd), which would authorize a race track association to revise the estimate for the aggregate handle during a meeting if the Board determines that the revision is necessary, is pending in the Senate Committee on Governmental Organization.

AB 3095 (Floyd), which would authorize the use of electronic data processing equipment for parimutuel wagering, is pending in the Senate Committee on Governmental Organization.

SB 1700 (Maddy), as amended April 13, would delete an existing requirement requiring the Board, when satellite wagering facilities are receiving a live signal of a horse racing meeting, to designate a



steward at the track where the meeting is being conducted to be responsible for monitoring the satellite wagering activities at the track and at all satellite wagering facilities receiving the signal. Instead, this bill would require the Board to contract with persons licensed as stewards to perform duties as Board representatives at satellite wagering facilities with an average daily handle of \$100,000 or more, but would prohibit the assigning of more than one steward per event. This bill is pending in the Assembly Committee on Governmental Organization.

SB 2010 (Maddy), as amended May 17, was signed by the Governor on June 8 (Chapter 138, Statutes of 1988). Existing law requires any person claiming money from a parimutuel pool to file a claim with the CHRB within sixty days after the close of a horse racing meeting and requires any unclaimed money from a parimutuel pool to be paid to the Board ninety days after the close of the meeting. This bill requires a person to file a claim for money from a parimutuel pool with the association issuing the ticket within 120 days after the close of the meeting, and deletes the provisions for filing claims with the Board. The bill also requires any unclaimed money from a parimutuel pool to be paid to the Board 120 days after the close of the meeting, with specified exceptions.

SB 532 (Keene), as amended June 13, would authorize the CHRB to permit quarter horse races over distances of up to 5-1/2 furlongs. At this writing, this bill is pending in the Assembly Ways and Means Committee.

The following bills died in committee or were dropped by their authors: *AB 3198 (Bane)*, regarding harness racing at the 22nd District Agricultural Association (Del Mar); and *AB 2318 (Waters)*, regarding state license fees for mixed breed meetings.

FUTURE MEETINGS:

August 26 at Del Mar.
September 23 at San Mateo.
October 21 at Arcadia.
November 18 at Los Angeles.
December 16 at Los Angeles.

NEW MOTOR VEHICLE BOARD

Executive Officer: Sam W. Jennings
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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 Regulations for Third Party Dispute Resolution Certification Program. At its June 22 meeting in Los Angeles, the Board was scheduled to consider proposed new Article 1.5, which (if approved) will be added to its regulations which appear in Title 13, California Code of Regulations. Article 1.5 will implement AB 2057 (Tanner) (Chapter 1280, Statutes of 1987), which added section 9889.75 to the Business and Professions Code. Section 9889.75 requires the NMVB to establish and administer the collection of fees for the purpose of fully funding the Bureau of Automotive Repair's Certification Program for Qualified Third Party Dispute Resolution Processes. (See CRLR Vol. 7, No. 4 (Fall 1987) pp. 40 and 104; and Vol. 7, No. 3 (Summer 1987) pp. 58-59 and 129 for background information on AB 2057.)

The Board has proposed two alternative versions of Article 1.5, and will adopt whichever version is appropriate depending upon whether AB 1367 (Tanner), which would amend section 9889.75, passes the legislature (see *supra* LEGISLATION). Alternative #1 assumes that AB 1367 fails to pass and section 9889.75 remains as it is. Section 9889.75 currently requires manufacturers to file a statement with their license application or renewal submitted to the Department of Motor Vehicles (DMV), which reports

the number of new motor vehicles which were sold, leased, or otherwise distributed by or for the manufacturer or distributor in California within the preceding calendar year. Under Alternative #1, the DMV will calculate the fee to be assessed from this statement, using 42 cents per new motor vehicle distributed, and the manufacturer will be notified by DMV to submit that fee to DMV at the time of license renewal or application.

Alternative #2 assumes that AB 1367 will amend section 9889.75 to require manufacturers to file a statement with the NMVB on or before May 1 of every year, which reports the number of new motor vehicles distributed by the manufacturer which were sold, leased, or otherwise distributed in California during the preceding calendar year. The NMVB would then determine the fee to be assessed per vehicle pursuant to a formula set forth in the proposed regulation. Alternative #2 also sets forth a delinquency period and delinquency penalties which are consistent with AB 1367.

LEGISLATION:

AB 1367 (Tanner), as amended May 31, would amend section 9889.75 of the Business and Professions Code. For purposes of the Certification Account which funds the Bureau of Automotive Repair's program for certification of third party dispute resolution processes, this bill would require every new motor vehicle manufacturer to file a statement on or before May 1 of each year which contains specified information, and to pay a fee within a specified time period after written notification by the NMVB. This bill also requires the NMVB, in adopting regulations to implement section 9889.75, to include a formula for calculating the fee to be collected for each motor vehicle and the total amount of fees to be collected from each manufacturer. (See *supra* MAJOR PROJECTS for related discussion.) AB 1367 was submitted to the Governor for approval on June 14.

AB 3659 (Duplissee), as amended April 20, would proscribe specified acts relative to advertisements for the sale of vehicles, and would require specified information to be disclosed in those advertisements. The bill would also provide a definition of "manufacturer's suggested retail price" for purposes of those advertisements. This bill passed the Assembly on June 9 and is pending in the Senate Transportation Committee.

AB 4513 (Tanner), as amended April 20, would revise the definition of "motor vehicle" for the purpose of warranties,