



# REGULATORY AGENCY ACTION

to streamline and expedite the disciplinary process.

## LEGISLATION:

*SB 84 (Boatwright)*, introduced December 12, 1986, would completely eliminate the Auctioneer Commission. Recently, the Commission has been the subject of increasing criticism. According to the *Sacramento Bee* (November 9, 1986 at A1), Shayel M. Hochman, past president of the Board of Governors, works for an auctioneering firm which owes creditors in four states more than \$1.3 million. Additionally, the owner of that firm, David E. Lawson, was appointed to the Auctioneer Commission's Disciplinary Review Committee (see CRLR Vol. 6, No. 4 (Fall 1986) p. 85). The roles of both individuals as regulators have raised conflict of interest and impropriety complaints. Moreover, the Commission has an annual budget of \$182,000 coming mainly from fees; yet, it revoked no more than six licenses in the past three years.

In response to the criticism, Karen Wyant, one of the Commission's executive officers, states that over \$58,000 has been paid to sellers from license bonds by order of the Commission; an additional \$36,000 has been voluntarily paid to consumers by licensees as a direct result of the Commission's complaint investigation process; actions to revoke the licenses of ten auctioneers and companies, and to order the payment of an additional \$76,000 to consumers from license bonds are currently being processed by the Commission; and more than 45% of all licensees against whom two or more complaints were filed during the last year face disciplinary action to suspend or revoke their licenses, and another 12% have been or will be assessed administrative fines ranging from \$100 to \$1,000.

## RECENT MEETINGS:

The Board's recent meetings have been dominated by lengthy discussion of the recovery fund proposal (see *supra* MAJOR PROJECTS). At its November meeting, the Board elected new officers for 1987: President Howard "Gus" Hall; Vice President Lauren Lizerbam; and Treasurer Charles Westlund.

## FUTURE MEETINGS:

To be announced.

## BOARD OF CHIROPRACTIC EXAMINERS

*Executive Director:*

*Edward Hoefling*  
(916) 445-3244

In 1922, California voters approved an initiative which created the Board of Chiropractic Examiners. The Board licenses chiropractors and enforces professional standards. It also approves chiropractic schools, colleges, and continuing education courses.

The Board consists of seven members, including five chiropractors and two public members.

## MAJOR PROJECTS:

*Appeals Committee.* The Appeals Committee met in Sacramento on August 28 to review all appeals from the May 1986 exam. Those contesting the results of the exam carry a heavy burden to prove that their particular scores should be modified. The Committee reported to the Board that no appellant had met the required burden of proof. The Board reviewed the Committee's findings and agreed that all appeals should be denied. The Committee did agree that some of the appeals reflected a legitimate constructive critique of the examination.

*Hearings.* The Board has held several hearings on proposed changes to section 302 of the California Chiropractic Act. (See CRLR Vol. 6, No. 2 (Spring 1986) p. 89.) The Board is reviewing the information collected before making its final decision on section 302.

## FUTURE MEETINGS:

To be announced.

## CALIFORNIA ENERGY COMMISSION

*Executive Director: Stephen Rhoads*  
*Chairperson: Charles R. Imbrecht*  
(916) 324-3008

In 1974, the legislature created the State Energy Resources Conservation and Development Commission, better known as the California Energy Commission (CEC). The Commission's major regulatory function is the siting of power plants. It is also generally charged with assessing trends in energy consumption and energy resources available to the state; reducing wasteful, unnecessary uses of energy; conducting research and development of alternative energy sources; and developing contingency plans to

deal with possible fuel or electrical energy shortages.

CEC consists of five commissioners appointed by the Governor to staggered five-year terms. One commissioner must be a public member. The remaining four are chosen for their experience in engineering, physical science, environmental protection, and administrative law, economics and natural resource management. Each commissioner has a special advisor and supporting staff. The current Commission staff numbers approximately 360.

The five divisions within the Energy Commission are: (1) Conservation; (2) Development, which studies alternative energy sources including geothermal, wind and solar energy; (3) Assessment, responsible for forecasting the state's energy needs; (4) Siting and Environmental, which does evaluative work in connection with the siting of power plants; and (5) Administrative Services.

## MAJOR PROJECTS:

*Energy Project Funding.* CEC will be funding advanced energy projects by private and public organizations through the Energy Technologies Advancement Program. The projects are intended to increase the energy efficiency of existing energy technologies, or help develop new, cost-efficient alternative sources of energy. The projects must include hardware development. Project proposals were due by January 20, with selected projects to receive funds beginning in June 1987.

## LEGISLATION:

*AB 98 (Bradley)*, introduced December 10, would appropriate \$50,000 from the Energy Program Account in the General Fund for a private independent study to evaluate whether CEC energy standards for new residential and non-residential buildings are cost-effective.

*AB 694 (Hauser)*, signed by the Governor, authorizes CEC to allocate funds to the Superintendent of Public Instruction to support vehicular air quality control and inspection instruction in required automobile driver education courses. Additionally, all training vehicles will be fitted with instrumentation providing information on fuel efficiency.

This law also creates the Ridesharing Vanpool Revolving Loan Fund, to be administered by the CEC. Further, the law repeals the requirement that CEC use funds in the Clean Coal Account for contracts for development and demonstration projects utilizing coal. The law also provides funds for school districts for air conditioning equipment for year-



round schools, to small businesses for low-interest loans and technical assistance to reduce their energy costs, and funds for Native American community energy services.

All funding for AB 694 will come from the Petroleum Violation Escrow Account (PVEA). PVEA is a holding account of funds derived from legal actions and settlements by the federal government for overcharges during the period of petroleum price regulation (September 1973 to January 1981). Each state receives a calculated portion of these funds which are to be used to benefit the injured purchasers.

*SB 880 (L. Greene)*, which was signed by the Governor, authorizes the use of PVEA funds for provision of financial assistance to local jurisdictions for energy training and management assistance and loans to local jurisdictions for energy project assistance. The law also requires CEC to enter into an agreement with the Regents of the University of California, the Trustees of the California State University system, and the Board of Governors of the California Community Colleges to improve energy efficiency at those universities and colleges.

*SB 1145 (Mello)*, also signed by the Governor, appropriates PVEA funds to the CEC for a farm energy assistance program.

*SB 1146 (McCorquodale)*, which was signed by the Governor, directs CEC to establish a low-interest energy assistance revolving loan program to fund the purchase of equipment for alternative technology energy projects by small businesses. This program will also be supported with PVEA funds.

*SB 1147 (Presley)*, signed by the Governor, creates the Clean Fuels Account and requires that CEC, in conjunction with the state Air Resources Board, carry out a technology development and financial assistance program relating to the use of methanol fuel.

#### RECENT MEETINGS:

At its October 1 meeting, CEC adopted the 1986 Conservation Report. State law directs CEC to prepare this biennial report to identify emerging conservation trends in the residential, commercial, industrial, agricultural, and transportation sectors. The report specifies the level of conservation reasonably expected to occur over the next 5-, 12- and 20-year periods and indicates the potential for additional achievable conservation. It recommends legislative and administrative actions to attain this potential.

Also at the October meeting, CEC approved thirteen grants and five loans to institutional conservation programs. These funds came from the federal Department of Energy and were originally allocated in February 1986. Hemet Valley Hospital declined its grant and loan, thus freeing the funds to be distributed to the applicants with the next highest scores.

During the same session, CEC agreed to co-sponsor a conference organized by the California Native Plant Society entitled "Rare and Endangered Plants - A California Conference on Their Conservation and Management." The conference was held in Sacramento on November 5-8.

At the October 15 meeting, CEC refused to initiate rulemaking proceedings to amend the efficiency standard of room air conditioners below 6,000 BTU/hour capacity. The current standard is set forth in Title 20 of the California Administrative Code, section 1604(b).

An unusual issue at the October 29 meeting prompted CEC to invoke its discretionary power established in the Warren-Alquist Act. Public Resources Code section 25120 grants CEC jurisdiction over sites and related facilities using any source of thermal energy with a generating capacity of 50 megawatts or more. Sections 25500 and 25517 prohibit construction of a power plant prior to CEC certification. Luz Engineering Corporation (Luz) is presently constructing three solar energy generating systems and has two more planned, each capable of only 30 megawatts.

CEC staff contended that the five units should be considered as one site and CEC accordingly has jurisdiction over the project. The staff, therefore, requested that Luz be required to halt construction until the certification process is initiated and completed.

Luz argued that each of the units is a separate site. It also argued that CEC has had full knowledge of the project for some time and that it would be unfair to assert jurisdiction at this late date. Luz also said that the project is on a very tight construction schedule and that it is necessary to continue construction in order that the project be completed in time to meet the deadline for tax incentives offered by the federal government. Luz stated that since generation of solar energy is a low profit-margin undertaking in any event, the tax incentives are of significant importance to its investors.

CEC, assuming jurisdiction, ordered that Luz suspend construction for one week during which time the CEC staff

would make its preliminary investigations. Luz was ordered to prepare its Application for Certification as soon as possible and the staff was asked to give the completion of the project's certification the highest priority.

Also at the October 29 meeting, CEC approved a contract with Acurex Corporation to support CEC's existing 20-site, 500-car methanol fleet and the methanol bus demonstration. The contract will also support establishment and operation of a methanol fueling station network.

At its November 12 meeting, CEC approved a new internal method of handling requests for minor changes to conditions of CEC certification of energy facilities, which result from final design decisions by developers. In the past, all changes to certification conditions have been approved by the full Commission. The new system provides that the staff of the Siting and Environmental Division (SED), along with power plant developers and agencies which participated in the certification process, submit to the SED Compliance Unit staff any request for a post-certification change to conditions of certification. SED Compliance Unit staff will notify interested parties of the request so as to allow them to comment on the proposed change. That staff will also investigate the request and submit its recommendation to the Executive Director. The Executive Director, in consultation with the General Counsel's Office, shall submit his/her recommendation to the Siting and Regulatory Procedures Committee (SRPC). SRPC will either accept the recommendation or suggest that the proposed change be brought before the full Commission. If the SRPC accepts the recommendation, then the other Commissioners will be notified of the acceptance before its implementation. In this manner, any Commissioner may bring the decision before the full Commission.

Also at the November 12 meeting, CEC approved an agreement with California State University (CSU) system. CSU will provide students capable of assisting with various analytical and technical duties, developing software users manuals, and providing programming, consulting, training, and problem resolution services for CEC staff using personal computer, terminal, and communications network resources. Students will also assist in the collection of data and writing of reports.

At its December 10 meeting, CEC approved the formation of the Residential Building Energy Efficiency Stand-



ards Implementation Advisory Group. This group will provide a formal structure for input from those organizations which have direct responsibility for implementation of residential building energy efficiency standards. The member organizations are: California Association of Building Energy Consultants, California Building Industry Association, California Building Officials Association, and California Council of the American Institute of Architects. The group will provide clarification and interpretation of the existing language of the standards, rather than advice on amendments to the standards. It is not anticipated that any state expenditures will be incurred for the group since each organization will be responsible for its member's attendance.

#### FUTURE MEETINGS

March 4 and 18 in Sacramento.

April 1, 15, and 29 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 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. This Board may regulate more freely than many other agencies.

#### MAJOR PROJECTS:

*Race Date Allocations.* CHRB's Special Committee on the Racing Calendars is currently allocating race dates for the years 1987, 1988, and 1989. Commissioner Ferraro presented the Committee's initial recommendations at CHRB's October 24 meeting, and stated on behalf of the Board that in order to further achieve CHRB objectives, the race date allocations would be granted subject to compliance with stated conditions. The Committee urged the Board to "express its readiness to vacate and reassign racing dates if the conditions as imposed are not met."

The conditions to be imposed on thoroughbred racing facilities in the northern zones are as follows. Each racing facility must, under licensed conditions, make not less than 1,000 of its stalls available for auxiliary stabling for a number of weeks equal to the number allocated for thoroughbred racing. The cost to the horsemen will not exceed \$3.50 per stall per day, including the necessary vaning costs for delivery and return of an entered horse. These conditions will not be applicable, however, if the affected associations are found to be required to pay interest on horsemen's accounts held by the association.

The conditions for the central zone are the same, except that racing facilities must make the stalls available for a twenty-week period instead of for an equal number of weeks as has been allocated for racing at that facility.

Associations on the Quarter Horse circuit and the California Racing Fair circuit were granted dates subject to night racing and weekend requirements.

Finally, Santa Anita and Hollywood Park were granted racing dates on the condition that legislation which would authorize intertrack satellite wagering in the central and southern zones be introduced and passed during the 1987 legislative session. The passage of SB 1499 (see LEGISLATION, below) allows for intertrack wagering in the northern zone, but thus far no such authorization exists for the central and southern zones. Due in part to competition from the California Lottery, the southern California

racing associations have experienced an average 11% decline in their handles. The northern zone, on the other hand, has had an average handle increase of 18%, due to the implementation of intertrack wagering. CHRB feels that such implementation in the southern and central zones will increase revenue for the state, the horsemen, and the racing associations. Neil Papiano, counsel for Hollywood Park, and Clifford Goodrich, Vice President and Assistant General Manager of the Los Angeles Turf Club (Santa Anita), both stated that they strongly support the proposed legislation, and have come to an agreement regarding its implementation. As of this writing, the other racing associations involved have yet to review and approve this agreement.

Before adopting the recommended race date allocations, CHRB heard extensive testimony from horsemen and racing association representatives, much of which regarded the cost of auxiliary stabling. Horse owner Robert Forgurd stated at the October 24 meeting that he agreed that CHRB must impose some conditions because the horsemen and the racing associations could not come to any agreement, but he strongly urged the Board to abandon the stabling requirements. He argued that the owners are losing money, and that these extra costs should be paid by the associations, which are in a better position to do so. Dr. Rick Arthur, Director of the Horsemen's Benevolent & Protective Association (HBPA), also stated that the associations are not meeting their stabling responsibilities and should be required to supply adequate stabling at their own cost. Mr. Robert Strub, President of the Los Angeles Turf Club, remarked in rebuttal that high taxes and insurance costs are causing financial difficulties for racing associations as well. The associations, he said, are willing to work out a compromise, but are not willing to bear the entire cost of auxiliary stabling.

In view of the testimony, adoption of the recommended dates and conditions was continued to the November 21 meeting. At the November 21 meeting, the recommendations for the southern thoroughbred circuit, the harness circuit, the Quarter Horse circuit, and the northern thoroughbred circuit were adopted, with a few dates changes but with the same stabling requirements. The California Racing Fair circuit dates were adopted at the December 5 meeting.

*Expansion of Parimutuel Wagering.* In addition to the proposed intertrack