



adds a proviso that the list is not exhaustive. A chiropractor may not penetrate the tissues of a human being, withdraw blood, or deliver a child. The use of X-ray equipment is also limited under this section. The proposed rule states that a chiropractor may use X-ray equipment for diagnosis only, and not for treatment.

The Board has adopted these proposed changes and submitted them to the Office of Administrative Law for formal review.

LEGISLATION:

SB 147 (Torres) would require every health facility which provides diagnostic evaluation equipment for members of the facility's medical staff to provide these services upon the order or referral of an authorized chiropractor. Under the proposed legislation, wilful or repeated violation of this requirement would be a misdemeanor.

RECENT MEETINGS:

At the January 15 meeting, the Board elected new officers for 1987. Dr. Hemauer is the new chairperson; Dr. McKown is the vice-chair; and Dr. Kauffman is secretary.

At the February 19 meeting, the Board discussed proposed changes to the Relative Value Schedule (RVS). The RVS is a schedule of fees used in workers' compensation cases, and is set by the Department of Industrial Relations (DIR). The DIR proposed a change in fees for overlapping services. Overlapping services are services which can be provided by either a chiropractor or a medical doctor. The fees would be different depending on whether a chiropractor or a medical doctor performed the service, even though the service may be exactly the same.

The Board opposes these changes and believes that because the services are the same the fees should be the same. The Board suggested that the DIR form an ad hoc committee to study the issue.

The Board also discussed the need for a chiropractor to review consumer complaints received by the Board to determine their merit. The chiropractor would be a professional expert who would not be a member of the Board. The Board agreed to the concept of a chiropractic consultant and directed the staff to analyze the costs associated with this proposal.

FUTURE MEETINGS:

May 7 in northern California.
June 11 (location undecided).

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:

Quarterly Oil Report (Third Quarter 1986). The Quarterly Oil Report is the most current update on petroleum fuels market activity, price trends, refinery activities, and exploration and production in California, drafted in December 1986 by the Fossil Fuels Assessment Office and published by the CEC.

The Report sets forth the following statistical data:

- Total crude input to refineries (169,665 barrels) during this quarter was the greatest since 1981.

- Increased demand for petroleum products caused an increase in refinery output by 6%, as compared to third quarter 1985.

- The amount of petroleum fuels supplied to California during this quarter increased by 5.6% (84.1 thousand barrels

per day) over the same period last year.

- The total of all grades of motor gasoline supplied to California increased 4.3% compared to the same period last year. This increase was primarily due to a 9.8% (53.6 thousand barrels per day) increase in unleaded gasoline supplied.

- Electric utility consumption of low sulfur fuel oil was 3.3 times higher than consumption at this time last year.

- Net exports of petroleum fuels from California increased by 2% over the same period last year, reflecting a general increase in exports and decreases in imports of motor gasoline and aviation fuels.

- The average international crude oil price during the quarter was \$11.11 per barrel, down 59.2% from third quarter last year.

- California's posted crude oil price was \$7.92, down 60.8% from last year. Crude oil production declined from a year ago and previous quarter levels in five of six districts, bringing California total production below one million barrels per day for the first time in over three years.

- Third quarter average retail gasoline prices were 76.6 cents for regular leaded; 85.5 cents for regular unleaded; and 102.3 cents for premium unleaded, down 10% to 12.3% depending on grade, from second quarter 1986.

- Third quarter 1986 average retail diesel prices decreased 10.1 cents from second quarter 1986.

- Oil company revenue and net income declined by an average of 30% (\$2.852 billion) and 34.5% (\$125 million) respectively, compared to third quarter last year.

1987 Biennial Report. The CEC is preparing the 1987 Biennial Report, which is the state's principal energy policy and planning document. The Biennial Report is analytically based upon four other CEC documents: the Conservation Report, Electricity Report, Biennial Fuels Report, and Energy Development Report. A draft Biennial Report was made available in early March; the CEC will hold hearing thereafter.

LEGISLATION:

AB 98 (Bradley), introduced on December 10, 1986, would appropriate \$50,000 from the Energy Programs Account in the General Fund for a private independent study to evaluate whether CEC energy standards for new residential and nonresidential buildings are cost effective. Results would be submitted to the legislature no later than December 1988. On February 9, the bill



was referred to the Committee on Natural Resources.

AB 35 (Katz) would create the Katz Safe Schoolbus Fuel Efficiency Demonstration Program and Katz Schoolbus Fund to provide grants to local educational agencies to purchase schoolbuses. It would reduce the number of schoolbuses currently in operation which are not fuel-efficient and do not meet federal safety standards. On February 18, the bill was referred to the Committee on Transportation.

AB 889 (McClintock), introduced February 24, would require CEC, when making a determination to deny an application for certification of a thermal power plant, to consider and assess the economic impacts on the applicant of that denial.

SB 494 (Rosenthal), introduced February 23, would revise the definition of "thermal power plant" to include mobile, as well as stationary and floating facilities.

SB 507 (Rosenthal), also introduced February 23, would authorize CEC, in cooperation with the California World Trade Commission and the California Department of Commerce, to assist California alternative technology, and energy conservation firms to export technologies, products, and services to international markets.

AB 544 (Tanner) would add section 25541.2 to the Public Resources Code, to require CEC, in certifying any thermal power plant using resource recovery (waste-to-energy) technology to (in addition to all other existing requirements) find that the proposed project is consistent with the most recent electricity report of CEC; that at least half of the proposed project's waste supply comes from sources within the general forecast area, as defined by the air pollution control district or air quality management district within which the project would be located; and that the applicant will include in the project or in its contracts and commitments for municipal waste reasonable and feasible methods to remove recyclable materials, hazardous materials, and other described materials which produce toxic air contaminants.

SB 343 (Rosenthal) would require CEC, in conjunction with the Air Resources Board, to include in its biennial emerging trends report a description of the availability, cost, and air quality benefits of the use of clean-burning fuels in both stationary and transportation applications.

SB 283 (Rosenthal) would allocate

funds received by California from the petroleum violation escrow account (PVEA) to CEC for technical assistance studies and the installation of energy efficiency measures in schools and hospitals, and for deposit into the Energy Technologies Research, Development, and Demonstration Account in the General Fund to carry out new energy technology demonstration projects. (See CRLR Vol. 7 No. 1 (Winter 1987) p. 91 for background information on PVEA.)

RECENT MEETINGS:

At its January 21 meeting, the CEC made its final revision to its 1986 Electricity Report, previously adopted on December 17, 1986. The Electricity Report makes predictions concerning energy needs for both a five-year and a twelve-year period. The Report thus provides guidelines for the CEC when considering whether to certify a proposed new energy-producing facility.

The adopted revision allows the CEC to consider other factors when a proposed facility fails to prove its necessity under strict economic and physical tests based on the twelve-year prediction period. These other factors include (1) long-run benefits (that is, longer than the twelve-year period) which outweigh short-run costs; (2) benefits to public health and safety or the environment through displacement of current modes of energy production; (3) societal benefits not related to energy production (although waste-to-energy technology is the most obvious example, the CEC expressed reluctance to require electricity ratepayers to subsidize the process of solid waste disposal); and (4) benefits using resources indigenous to the state.

The CEC also discussed a proposed contract for \$27,612 with ADM Associates, Inc., to inventory street lights in the state. The CEC currently administers a loan fund, out of the Energy Conservation Assistance Account, from which local governments may borrow for the purpose of converting conventional street lights into more energy-efficient sodium vapor lamps. The results of the ADM survey will be used to determine whether the street light loan program will generate sufficient future demand to merit its continuation. Some members of the Commission expressed the opinion that the contract is an unnecessary expenditure, reasoning that the conduct of the survey is tantamount to the CEC searching for municipalities to which funds may be loaned. This may be unreasonable since each municipality has

had ample notice of the program and each should have the initiative to apply for funding if it so desires. The contract, however, was approved by a majority.

At its February 4 meeting, the CEC and the City of Santa Clara reached a compromise in which the CEC took jurisdiction over Santa Clara's Gianera Street Peaking Power Plant. At the outset, Santa Clara contended that the CEC lacked jurisdiction because the California Constitution gives chartered cities, such as Santa Clara, the exclusive ability to provide public works for its inhabitants. Thus, Santa Clara argued that construction and operation of its facility is a municipal affair exempt from state legislative control, and that the siting provisions of the Warren-Alquist Act vesting jurisdiction in the CEC are unconstitutional as applied to charter-city power facilities. The CEC took the position that energy planning comprises a comprehensive statewide scheme to further a statewide interest and hence Santa Clara's municipal interest is legally preempted.

To compromise, Santa Clara agreed to drop its cause of action in court. The CEC assumed jurisdiction, but exercised its prosecutorial discretion in agreeing not to suspend construction on the power plant. Both the CEC and Santa Clara agreed to work toward a speedy processing of either the project's Application for Certification (AFC) or a Small Power Plant Exemption (SPPE). (See CRLR Vol. 7, No. 1 (Winter 1987) p. 91 for another example of this type of compromise in which the CEC allowed construction to continue even though no AFC or SPPE has been submitted.) Responding to a question from the audience, CEC Chair Imbrecht reported that he foresaw no further instances of questionable jurisdiction and therefore this type of procedure is unlikely to occur again.

On February 18, the CEC approved three loans from the Energy Conservation Assistance Account to the city governments of San Juan Capistrano, Lakeside, and South Gate to convert their street lights to sodium vapor lamps. The loan total for these three cities is \$771,400 for conversion of 3815 street lights with an annual savings of 1.7 million kilowatts (KWh) and \$164,018, and an average payback time of 4.7 years. To date, \$16.5 million has been loaned and \$32,781 has been granted through this account, and 102,288 street lights have been converted, saving 90.9 million KWh and \$6.1 million annually.



CEC also held a public hearing concerning proposed amendments to the Energy Conservation Standards for new residential buildings. Representatives from lumbar companies, contractors, architects, utilities, and developers strongly opposed the amendments, often citing their unwieldiness and specificity as too burdensome to permit efficient compliance.

FUTURE MEETINGS:

To be announced.

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.

MAJOR PROJECTS:

Intertrack Simulcast Wagering. Under the collective authority of Chapters 24, 1285, and 1286 of the Statutes of 1986, Chapters 566 and 1740 of the Statutes of 1984, and Chapter 186 of the Statutes of 1982, CHRB is now permitted to expand parimutuel wagering with the use of live audio-visual simulcast television programming of horse races. The authorization includes the reception of signals from other jurisdictions and the transmission of simulcasts of California horse races for wagering purposes both within California and outside California. Horse races held at licensed race meetings will be displayed at off-track locations by means of live audio-visual simulcast television programs. Patrons may wager on these races at the off-track locations, and the money bet will be combined with those wagers made within the enclosure of the live race. CHRB must approve the facilities, accommodations, equipment, and methods of operation of simulcast wagering within the state. Finally, the statutes provide that when approved by the Board, the simulcast may also be used by a lawful wagering system outside California.

Because the Board has no existing regulations governing simulcast wagering, CHRB noticed its proposal to add Article 24, Simulcast Wagering, consisting of sections 2056 through 2061, to Title 4 of the California Administrative Code. Section 2056 defines terms used in the regulations which are unique to satellite wagering. Section 2057 specifies the duty of the racing associations to offer simulcast wagering. The regulation empowers the Board to require as a condition for licensing that an association contract with a simulcast operator to provide intrastate simulcast wagering at one or more Board-approved guest location. It also requires that a scrambling device be used to prevent unauthorized use of the broadcast. Section 2058 specifies the requirements for approval of the simulcast wagering locations. These requirements include endorsements from the Division of Fairs and Expositions of the Department of Food and Agriculture, participation in the California Authority of Racing Fairs, an executed agreement between a simulcast operator and the racing association, and finally, plans outlining the proposed facility, its public accommodations, equipment, and security controls.

Section 2059 requires licensing for simulcast operators and specifies requirements for such licensing. Prospective

licensees must submit a financial statement outlining a capitalization of not less than \$1,500,000; post a \$500,000 surety bond with the Board to ensure payment of distributable amounts of parimutuel pools; pay a license fee of \$1,000 for a term of three years; and demonstrate experience in the conduct of simulcast wagering. No licenses will be granted to nonprofit organizations entitled to any state tax exemption or to any corporation in which the majority financial interest (over 50%) is held by a racing association licensed by the Board.

Section 2060 outlines the duties of licensed simulcast operators. The regulation specifies the type of broadcast system to be used, the audited reports and financial statements to be provided to the Board, and distribution of monies acquired as a result of wagering.

Finally, section 2061 regulates out-of-state and interstate wagering. An association intending to conduct wagering on an out-of-state race must file with the Board a copy of the agreement with the out-of-state association, copies of the written approvals required by Chapter 57 of Title 15 of the United States Code, and a statement setting forth the date and time it intends to commence accepting wagers on the out-of-state races. CHRB must also approve the simulcast methods being used by the out-of-state association.

A public hearing on these proposed regulatory actions was scheduled for April 24 at 9:30 a.m. at the Los Angeles Airport Hilton Hotel.

LEGISLATION:

AB 310 (Floyd) would authorize owners to enter thoroughbred horses in quarter horse races at a distance of 870 yards at quarter horse or mixed-breed races. AB 310 was referred to the Committee on Governmental Organization on February 9.

AB 195 (Cortese), introduced January 6, would require any county fair, district agricultural association fair, or citrus fruit fair in the northern zone, or in the counties of Kern, San Luis Obispo, or Santa Barbara, which conducts satellite wagering to make a specified deduction from its total parimutuel wagers for distribution to the city or county where the meeting is located. If enacted, AB 195 will take effect immediately as an urgency statute. On February 18, the bill was referred to the Committee on Governmental Organization.

AB 333 (Costa) would amend section 19617 of the Business and Professions