rulemaking file did not provide the rationale or the factual basis for specific provisions of the proposed section; OAL also found that the section is unclear in a number of ways, and that it uses confusing, inconsistent, ambiguous, and undefined terms. Finally, OAL found that the rulemaking file did not contain evidence showing that BCE formally adopted the regulation; did not contain good cause for an early effective date; contained incorrect citations to the CCR; failed to mention or explain the post-hearing modifications to the regulation; and failed to mention a 15-day public comment period on post-hearing modifications to the regulations.

At this writing, no further action on this proposed action has been taken by BCE.

• **Practical Exam Prerequisites**. On August 14, OAL approved BCE's amendments to section 349, Title 16 of the CCR, which interpret section 1000-6(d) of the Business and Professions Code regarding prerequisites for taking the practical portion of the California chiropractic examination. The amendments provide that, effective January 1, 1996, prior to being scheduled for the practical portion of the California Board examination, an applicant must show proof of either National Board status or successful completion of the entire written portion of the California licensure examination. The amendments also clarify that the term "National Board status" means successful completion of Parts I, II, III, and physiotherapy on the national exam. *[15:2&3 CRLR 176; 15:1 CRLR 157; 14:4 CRLR 186]* According to BCE, requiring candidates to pass the national or state written examination before taking the California practical examination will allow the Board to establish the candidates' academic competence in ten areas of knowledge which are foundational to the practice of chiropractic before they appear before BCE's practical exam commissioners.

LEGISLATION

SB 682 (Peace). Existing law requires the Medical Board of California, the State Bar, and BCE to each designate employees to investigate and report to the Bureau of Fraudulent Claims of the Department of Insurance any possible fraudulent activities relating to motor vehicle or disability insurance by licensees of the boards or the Bar. As introduced February 22, this bill additionally requires those entities to investigate and report any possible fraudulent activities relating to workers' compensation. This bill was signed by the Governor on July 22 (Chapter 167, Statutes of 1995).

ACR 31 (Gallegos), as amended May 8, acknowledges the significant contributions made by the chiropractic profession to the health and welfare of Californians, and commemorates 1995 as the centennial anniversary of the founding of the chiropractic profession. This measure was enrolled on May 25 (Chapter 32, Resolutions of 1995).

RECENT MEETINGS

At the Board's July 27 meeting, BCE Chair Lloyd Boland, DC, introduced new Board member Stephen Foreman, DC; Dr. Boland also announced that Raymond Ursillo, DC, a former BCE member, has joined the Board's staff as a consultant.

Also at its July 27 meeting, BCE discussed the possibility of requiring licensees to have malpractice insurance. Following discussion, the Board generally noted that while malpractice insurance might be important for licensees to have, addressing the issue is not an immediate necessity for the Board.

At BCE's October 12 meeting, Executive Director Vivian Davis announced her resignation from the Board, effective December 31.

FUTURE MEETINGS

January 18 in Los Angeles.
February 29 in Sacramento.
April 11 in San Diego.
June 6 in Sacramento.

CALIFORNIA HORSE RACING BOARD

Executive Secretary:
Roy Wood
(916) 263-6000
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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 Division 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 position, 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

Protests. On June 9, CHRB published notice of its intent to amend section 1754, Title 4 of the CCR, which explains its guidelines for filing protests; the Board's amendments specify when the time requirement starts and what procedures are followed when a protest is filed with the Board's Executive Secretary. The Board held a public hearing on the changes on July 27; following the hearing, CHRB adopted the changes, which were approved by the Office of Administrative Law (OAL) on September 18.

Grounds for Protests. On June 9, CHRB published notice of its intent to amend section 1755, Title 4 of the CCR, which lists the grounds for protests. The amendments specify that protests must be made to the stewards, and provides that a driver who is ineligible to participate in a race is grounds for a protest. The Board held a public hearing on the changes on July 27; following the hearing, CHRB adopted the changes, which were approved by OAL on September 18.

Appeals. On June 9, CHRB published notice of its intent to amend section 1761, Title 4 of the CCR, which permits an appeal from every decision of the stewards and defines the process for filing the appeal. CHRB's amendments would prohibit appeals on decisions to disqualify a horse for riding or driving infractions, and include the criteria that must be met for filing an appeal. The Board held a public hearing on the changes on July 27; following the hearing, CHRB adopted the

changes, which were approved by OAL on December 13.

Parimutuel Tickets. On July 21, CHRB published notice of its intent to amend section 1951, Title 4 of the CCR, which specifies what constitutes a parimutuel ticket, when it may be cashed and by whom, the information which must be printed on the ticket, and the criteria for refusal by a racing association to cash a parimutuel ticket. Recent amendments to Business and Professions Code section 19598 changed the period for cashing a parimutuel ticket from 120 days after the last day of the race meeting to May 15 of the year following the year in which the race meeting ended. CHRB's amendment to section 1951 would reflect this new provision.

CHRB held a public hearing on the proposed change on September 22; following the hearing, the Board adopted the change, which was approved by OAL on November 14.

Daily Triple Parimutuel Pools. On July 28, CHRB published notice of its intent to amend section 1977, Title 4 of the CCR, which specifies the conditions and requirements for racing associations to have a "Daily Triple" parimutuel pool; among other things, the section provides that in the event of a dead heat, all runners in the dead heat are considered winners to calculate the pool. The payout is a single price for all tickets combining the winning horses in the three races. CHRB's proposed amendment would change the payout from a single price to a "profit split," which will be calculated on the proportionate amount of money wagering on each winning combination.

CHRB held a public hearing on the proposed change on September 22; following the hearing, the Board adopted the change, which was approved by OAL on November 1.

Official Records. On July 28, CHRB published notice of its intent to amend section 1610, Title 4 of the CCR, which provides that the official records of the racing secretary and paymaster of purses are to be substantiated by the charts and records of the *Daily Racing Form*. CHRB has been advised that the Thoroughbred Racing Association of North America and the Jockey Club have formed the Equibase Company, which is the industry's own complete data collection and dissemination entity; CHRB's amendment would provide a waiver of section 1610 in order to allow the use of Equibase to substantiate the official records for the spring/summer meet at Hollywood Park.

CHRB held a public hearing on the proposed change on September 22; following the hearing, the Board adopted the change, which was approved by OAL on November 1.

Whip Requirements. On August 11, CHRB published notice of its intent to amend section 1685, Title 4 of the CCR, which addresses the acceptable weight and length of a whip and specifies that a whip must have a "popper" attached at the end with at least three rows of leather "feathers" attached above the popper. CHRB's amendment would allow the use of whips made with materials other than the traditional leather. CHRB held a public hearing on the proposed change on November 10; following the hearing, the Board adopted the change, which awaits review and approval by OAL.

Urine Test Samples. On September 8, CHRB published notice of its intent to amend section 1858, Title 4 of the CCR, which requires that blood and urine samples be taken from claimed horses. According to CHRB's Equine Medical Director, it is not necessary to take both samples; CHRB's proposed change would delete the requirement that urine samples be taken. The Board held a public hearing on the proposed change on November 10; following the hearing, the Board adopted the change, which awaits review and approval by OAL.

California-Breed Filing Requirement. On September 8, CHRB published notice of its intent to repeal section 1816, Title 4 of the CCR, which requires racing associations to file a listing of all California-breeds admitted to their grounds with the appropriate official registering agency. According to CHRB, this requirement was necessary when racing associations paid California-bred awards, since they needed verification a horse was California-bred before they paid. However, Business and Professions Code section 19617.2(b)(4) requires that the official registering agency pay California-bred awards; thus, section 1816 is no longer necessary. The Board held a public hearing on the proposed change on November 10; following the hearing, the Board adopted the change, which awaits review and approval by OAL.

Disorderly Conduct. On December 1, CHRB published notice of its intent to amend section 1874, Title 4 of the CCR, which prohibits Board licensees from being intoxicated or under the influence of drugs while within the inclosure of a racetrack. The Board's proposed amendments would clarify what constitutes disorderly conduct. At this writing, CHRB is scheduled to hold a public hearing on its proposed changes on January 26 in Arcadia.

Rulemaking Update. The following is a status update on other CHRB rulemaking proposals described in detail in previous issues of the *Reporter*:

• ***Occupational Licenses and Fees.*** On May 31, OAL approved CHRB's amendment to section 1481, Title 4 of the CCR, which allows the Board to collect the actual costs of its licensees' participation in the Licensing Reciprocity Program of the Association of Racing Commissioners International (ARCI). Section 1481(i) specifies that a CHRB licensee who elects to participate in the Licensing Reciprocity Program shall pay a fee of $25. Currently, the associated costs for participation in the program are $34; CHRB has no control over the cost, as fees for the program are determined by ARCI and the Federal Bureau of Investigation. The amendment allows CHRB to collect the actual costs incurred without having to go through the rulemaking process each time the rate increases. *[15:2&3 CRLR 177]*

• ***Licensing of Contractors and Subcontractors.*** On June 27, OAL disapproved CHRB's proposed adoption of new section 1440.5, Title 4 of the CCR, which pertains to the licensing of contractors and subcontractors working within the enclosure at a racetrack. Section 1440.5 currently provides that totalizator, photo finish, and video production companies are routinely approved, but not licensed, as part of the racing association's license to conduct a horse racing meeting pursuant to section 1440, Title 4 of the CCR, which concerns licensing and approval of concessionaires. According to CHRB, each of these entities exercise control over significant racing activities and/or monies. If the companies or their employees fail to perform or violate a Board rule, CHRB's only recourse is to penalize the employee, not the company. New section 1440.5 would require contractors and subcontractors to be licensed by CHRB, and would also require the licensing of simulcast service suppliers and timing companies. The licensing process would include, among other things, ownership disclosure and background investigations to determine a contractor's qualifications. In addition, CHRB would gain a full range of disciplinary options should a contractor fail to perform. *[15:2&3 CRLR 177]*

OAL disapproved the proposed action on the basis that it failed to comply with the Permit Reform Act of 1981 and the clarity requirement of the Administrative Procedure Act. CHRB revised the rulemaking file in accordance with OAL's findings, and resubmitted it for review; OAL approved the change on September 12.

• ***Totalizator Systems.*** On June 22, OAL approved CHRB's adoption of new section 1951.1, Title 4 of the CCR, regarding totalizator systems; under the totalization system of racetrack betting, tickets

are printed as purchased and the purchase automatically records at a central place so the odds may be determined. New section 1951.1 requires totalizator companies to provide systems that electronically transfer wagering information to all other totalizator systems merging parimutuel pools with California racing associations, both intrastate and interstate; systems that include a daily electronic download of parimutuel data directly to the horse racing database, as designated by CHRB; and a daily history of individual totalizator transactions in a computer-readable medium for each race meeting for a minimum of one year after the conclusion of the meet. *[15:2&3 CRLR 177]*

• ***Postmortem Examination***. On June 23, CHRB held a public hearing on its proposed amendments to section 1846.5, Title 4 of the CCR, which states the requirements and procedures for postmortem examinations of racehorses. The amendments delete the exclusion of pony horses from postmortem examinations; require the owner's or trainer's veterinarian to give the necropsy submission form to the official veterinarian on the official veterinarian's next scheduled work day if the official veterinarian is not available at the time of death; clarify that the testing is to be made available without charge to the owner; and specify that additional testing is the responsibility of the requesting individual. *[15:2&3 177–78]* Following the hearing, CHRB adopted the change, which was approved by OAL on August 11.

• ***Authorized Medication***. On June 23, CHRB held a public hearing on its proposed amendment to section 1844, Title 4 of the CCR, to establish and authorize the following acceptable levels of eight therapeutic drug substances and their metabolites or analogs, which may be present in an official post-race urine test sample: Acepromazine, 25 nanograms per milliliter (ng/ml); Mepivacaine, 10 ng/ml; Promazine, 25 ng/ml; Albuterol, 1 ng/ml; Atropine, 10 ng/ml; Benzocaine, 50 ng/ml; Procaine, 10 ng/ml; and Salicylates, 750 micrograms per milliliter. Under the amendments, official blood test samples shall not contain any of the authorized therapeutic drug substances, their metabolites, or analogs. *[15:2&3 CRLR 178]* Following the hearing, CHRB adopted the changes, which were approved by OAL on August 3.

• ***Horsemen's Organizations***. On July 27, CHRB held a public hearing on its proposed amendment to section 2040, Title 4 of the CCR. The amendment would clarify that separate organizations will represent owners and trainers of thoroughbred racehorses. *[15:2&3 CRLR 178; 15:1 CRLR 158–59; 14:2&3 CRLR 207–08]* Following the hearing, CHRB adopted the change, which was approved by OAL on September 22.

• ***Prohibited Drug Substances***. On June 23, CHRB adopted proposed new section 1843.3, Title 4 of the CCR, which would specify the appropriate disciplinary action for the finding of a prohibited drug substance(s) in a test sample taken from a horse participating in a race; new section 1843.2, Title 4 of the CCR, which would categorize prohibited substances into seven classifications ranging from drug substances with high abuse potential to therapeutic medications; and proposed amendments to section 1859.5, Title 4 of the CCR, which would revise the definition of the term "prohibited drug substance" to coincide with the definition contained in section 1843.1. The amendments to section 1859.5 would also specify that disqualification shall occur for prohibited drug substances found in a test sample that have been determined to be in Classes I–V, as established in proposed section 1843.2, unless the split sample fails to confirm the presence of the prohibited drug substance. *[15:2&3 CRLR 178; 15:1 CRLR 159–60; 14:4 CRLR 188]*

OAL approved new section 1843.2 on August 7 and the amendments to section 1859.5 on August 10. However, OAL disapproved new section 1843.3 on August 4; according to OAL, the section failed to comply with the clarity and consistency standards of the Administrative Procedure Act. At this writing, CHRB has taken no further action regarding proposed section 1843.3.

• ***Security Personnel at Simulcast Wagering Facility***. On July 21, OAL approved CHRB's amendments to section 2057, Title 4 of the CCR, which specify that it is a guest association's responsibility to provide security personnel for the entire facility, and clarify that it is not the responsibility of CHRB's Executive Secretary to specify the number of security personnel needed by the facility. *[15:2&3 CRLR 178; 15:1 CRLR 160; 14:4 CRLR 188–89]*

LEGISLATION

SB 100 (Maddy). The Gaming Registration Act, among other things, prohibits the ownership or operation of a gaming club without first obtaining a valid registration from the Attorney General. Existing law provides that an application for registration may be denied if the person, among other things, has any financial or other interest in any business or organization outside the state of California that is engaged in any form of gambling or gaming not authorized by the laws of this state. As amended July 24, this bill makes an exception from the foregoing for certain corporations licensed to conduct horse racing and simulcast wagering. The bill also provides that an application by a corporation licensed pursuant to the Horse Racing Law and certain other persons in connection therewith shall be deemed provisionally approved upon its submission. The bill prohibits, on and after January 1, 1996, the governing body and the electors of any county, city, or city and county that has not authorized legal gaming within its boundaries prior to January 1, 1996, from authorizing legal gaming, and also prohibits the amendment of an ordinance in effect on January 1, 1996, to expand gaming in the jurisdiction. Certain of the provisions of this bill would remain in effect only until January 1, 1999, and as of that date would be repealed, unless a later enacted statute, which is enacted before that date, enacts a comprehensive scheme for the regulation of gaming under the jurisdiction of a gaming or gambling control commission. This bill, which declares that it is to take effect immediately as an urgency statute, was signed by the Governor on August 3 (Chapter 387, Statutes of 1995).

SB 106 (Ayala). Existing law permits a thoroughbred racing association to accept wagers on the results of out-of-country thoroughbred races under specified circumstances. As amended July 5, this bill permits any thoroughbred racing association to execute an agreement with any other association that conducts thoroughbred races in a specified zone to allow the other association to distribute the audiovisual signal and accept those wagers.

Under existing law, for the privilege of conducting wagering on the results of horse races, racing associations pay the state a license fee. Under existing law, all revenue distributed to the state as license fees from wagering is required to be deposited in the Fair and Exposition Fund and is continuously appropriated to the California Department of Food and Agriculture (CDFA) for various regulatory and general governmental purposes. By expanding the authority of racing associations to accept wagers on out-of-country races, this bill increases the amount of license fees paid to the state for deposit in the fund, thereby making an appropriation, and authorizes the imposition of a state tax for purposes of Article XIIIA of the California Constitution. This bill was signed by the Governor on October 12 (Chapter 836, Statutes of 1995).

SB 518 (Dills). Under existing law, CHRB may authorize an association conducting a racing meeting in this state to accept wagers on the results of out-of-state

feature races having a gross purse of at least $50,000 during the period the association is conducting the racing meeting on days when live races are being run. For that privilege, the association pays a state license fee at a pro rata rate applicable to the races of the association's racing program for the day on which the out-of-state feature is offered. As introduced February 21, this bill permits CHRB to authorize any thoroughbred racing association conducting a meeting in this state to accept wagers on the results of out-of-state races, regardless of whether the race is a feature race and regardless of the amount of the gross purse. This bill also provides for a license fee of 8% of the total amount remaining from the takeout after the contractual payment to the out-of-state host racing association. This bill was signed by the Governor on July 17 (Chapter 125, Statutes of 1995).

SB 525 (Maddy). Existing law provides for the distribution of a specified amount of the redistributable money resulting from certain thoroughbred, harness, or quarter horse meetings, to a welfare fund established by the horsemen's organization contracting with the association with respect to the conduct of racing meetings for the benefit of horsemen and horsewomen. As amended June 27, this bill deletes the requirement that the welfare fund be one established by the horsemen's organization contracting with the association with respect to the conduct of racing meetings, and also provides that the welfare fund be for the benefit of backstretch personnel in addition to horsemen and horsewomen. This bill was signed by the Governor on August 1 (Chapter 248, Statutes of 1995).

AB 304 (Tucker). Existing law defines "breakage" as the odd cents by which the amount payable on each dollar wagered exceeds a multiple of $ 0.10. Under existing law, breakage is distributed as additional license fees, purses, commissions, and certain premiums and awards under the California Standardbred Sires Stakes Program. As amended September 7, this bill provides, until January 1, 1999, that at a quarter horse meeting, "breakage" is the odd cents by which the amount payable on each dollar wagered exceeds a multiple of $0.05.

Existing law provides for the distribution of 33/100 of 1% of the amount handled by a satellite wagering facility to the city or county in which the satellite wagering facility is located, and also provides that the amount is in lieu of the imposition of any license or excise tax or fee on the racing association or any racing patron. This bill requires the association to retain that amount for the payment of any possessory interest taxes, and to distribute the amount remaining after the payment of those taxes to the city or county. This bill was signed by the Governor on October 16 (Chapter 959, Statutes of 1995).

AB 371 (Tucker). Existing law requires a sum equal to 10% of the first and second place money of every purse won by a California-bred Arabian horse for first or second place at a horse race meeting to be paid by the licensee conducting the meeting to the breeder of the horse. Existing law also requires the distribution of varying amounts as breeder awards, owners' premiums, and stallion awards. As amended September 8, this bill instead requires those sums to be deposited with the official registering agency for Arabian horses and thereafter distributed as breeder premiums, owners' awards, and stallion awards in connection with Arabian horse races. The bill also provides that these provisions shall apply to any horse racing meetings conducted on or after January 1, 1995.

Existing law authorizes the construction of an Equine Drug Testing Laboratory at the University of California at Davis. Existing law also establishes the California Veterinary Diagnostic Laboratory System and Equine Research Laboratory Account in the Fair and Exposition Fund for the deposit of funds distributed from the parimutuel wagering pools for purposes of the California Veterinary Diagnostic Laboratory System and the Equine Research Laboratory. This bill changes all references to the Equine Research Laboratory in the Horse Racing Law to the California Center for Equine Health and Performance.

Existing law provides that it is the intent of the legislature that CHRB contract with the Regents of the University of California to provide equine drug testing. Existing law also provides that the Board shall contract to provide compensation for an equine medical director, with specified duties and responsibilities, who shall advise the Equine Drug Testing Laboratory and be appointed by the Dean of the UC Davis School of Veterinary Medicine. This bill provides that if the drug testing is not conducted by the Equine Drug Testing Laboratory at UC Davis, CHRB shall contract with the best qualified equine drug testing laboratory at a compensation rate that the Board determines is fair and reasonable to the State of California and the Board.

Existing law provides for the deduction at harness meetings of 1% of the total amount handled by each satellite wagering facility for distribution to an organization for promotion of the program at satellite wagering facilities. This bill instead requires that for harness meetings 1/2 of 1% of the total amount handled for each satellite wagering facility be distributed to an organization for promotion of the program at satellite wagering facilities, and that 1/2 of 1% of the total amount handled by each satellite wagering facility be distributed according to a written agreement for each race meeting between the licensed racing association and the organization representing the horsemen participating in the meeting. This bill was signed by the Governor on October 12 (Chapter 826, Statutes of 1995).

SCA 3 (Maddy), as amended May 3, would create the California Gaming Control Commission, and authorize the Commission to regulate and license legal gaming in this state, subject to legislative control. The measure would also create a Division of Gaming Control within the Office of the Attorney General, and permit the legislature to impose licensing fees on all types of gaming regulated by the Commission to support the activities of the Commission and the Division. The measure would provide for the regulation of bingo by the Commission, and permit the legislature to provide for the regulation by the Commission of both parimutuel wagering on horse racing and the State Lottery.

Under existing statutory law, CHRB is the state entity responsible for negotiating with Indian tribes for the purpose of entering into a tribal-state compact governing the conduct of horse racing activities on Indian lands of the tribe. No other person or entity is authorized to negotiate tribal-state compacts governing gaming on Indian lands. This measure would authorize the Governor to negotiate and execute tribal-state compacts with Indian tribes that would permit and regulate slot machines located on Indian lands, as defined. *[S. CA]*

AB 19 (Tucker), AB 11 (Isenberg, Hoge), SB 5 (Hayden), and **SB 10 (Kopp)**. The Gaming Registration Act, among other things, prohibits the ownership or operation of a gaming club, as defined, without first obtaining a valid registration from the Attorney General; existing law subjects any person operating a gaming club without a license to punishment in the state prison or in a county jail for not more than one year. These four bills would all repeal the Gaming Registration Act, recast these provisions, and enact the Gaming Control Act, which would create the California Gaming Control Commission and authorize the Commission to regulate legal gaming in this state. The bills would also create the Division of Gaming Control

within the Department of Justice, and specify that the Division of Gaming Control is responsible for investigation and enforcement of controlled gaming activity in the state.

Under existing law, CHRB is the state entity responsible for negotiating with the Indian tribes for the purpose of entering into a tribal-state compact governing the conduct of horse racing activities on Indian lands of the tribe. AB 11 would repeal that provision, and would additionally designate the Governor as the state officer responsible for negotiating and executing, on behalf of the state, as specified, compacts with federally recognized Indian tribes in California pursuant to the federal Indian Gaming Regulatory Act, for conducting Class III gaming on Indian lands. *[S. Appr, S. Rls, S. GO; S. Rls]*

AB 369 (Tucker). The Gaming Registration Act, among other things, prohibits the ownership or operation of a gaming club, as defined, without first obtaining a valid registration from the Attorney General. Existing law provides that an application for registration may be denied if the person, among other things, has any financial or other interest in any business or organization outside California that is engaged in any form of gambling or gaming not authorized by the laws of this state. As amended April 24, this bill would make an exception from the foregoing for certain corporations licensed to conduct horse racing and simulcast wagering. The bill would also provide that an application by an entity that was licensed pursuant to the Horse Racing Law during the twelve months preceding the effective date of this bill shall be deemed provisionally approved upon its submission. *[A. Inactive File]*

AB 91 (Tucker). Existing law declares the intent of the legislature that CHRB contract with the Regents of the University of California to provide equine drug testing. As amended May 11, this bill would declare the intent of the legislature that the Board may contract with the best qualified equine drug testing laboratory to provide all primary equine drug testing services at a compensation rate that the Board determines is fair and reasonable to the State of California and the Board. The bill would also state the intent of the legislature that complementary drug testing services be provided by the Equine Drug Testing Laboratory at UC Davis. *[A. Appr]*

AB 1014 (Lee). Existing law authorizes CHRB to allocate racing dates, including simultaneous racing between zones as it deems appropriate. As introduced February 23, this bill would provide that notwithstanding any other provision of law, the Board shall not allocate racing dates to a private thoroughbred association in the northern zone for the purpose of conducting racing during daytime hours if the Alameda County Fair is conducting racing on the same dates during daytime hours. *[A. GO]*

AB 1552 (Kaloogian). Existing law permits any licensed racing association operating a racetrack to construct another track of not less than a specified size partially or entirely in the infield of that track if, prior to the beginning of construction or preparation of the track, CHRB has determined, among other things, that the conduct of horse racing meetings at the track will subserve the purposes of the Horse Racing Law. As introduced February 24, this bill would require CHRB to find that horse racing meetings at the track would promote, instead of subserve, the purposes of the Horse Racing Law. *[A. GO]*

AB 1879 (Machado). Existing law provides for the allocation of a maximum of fourteen racing days to the California Exposition and State Fair or a county or district agricultural association fair or citrus fair; those racing days are required to be days on which general fair activities are conducted. As amended May 1, this bill would require those days to be in the calendar period in which general fair activities are conducted. *[S. GO]*

SB 270 (Maddy). Existing law provides, in various sections in the Horse Racing Law, for the distribution of 33/100 of 1% of the amount handled by a racing association or a satellite wagering facility to the city or county in which the racing meeting or satellite wagering facility is located, and also provides that the amount is in lieu of the imposition of any license or excise tax or fee on the racing association or any racing patron. As introduced February 8, this bill would consolidate these provisions. *[S. GO]*

SB 1220 (Maddy). Existing law provides for the distribution of 33/100 of 1% of the amount handled by a satellite wagering facility to the city or county in which the satellite wagering facility is located, and also provides that the amount is in lieu of the imposition of any license or excise tax or fee on the racing association or any racing patron. As amended July 10, this bill would provide that the foregoing distribution is also in lieu of the imposition of any possessory interest tax on the racing association, any racing patron, or service supplier, promoter, or vendor of the association.

Existing law provides that all funds for distribution as purses at satellite wagering facilities that are racing fairs in the County of Los Angeles from wagering on thoroughbred horse racing conducted at the 22nd District Agricultural Association fairgrounds shall be deposited in a separate account in the fair and exposition fund and are continuously appropriated to CDFA for supplementing purses at fair meetings in Los Angeles and Orange counties. This bill would appropriate these funds to CDFA for supplementing purses only at fair meetings in Los Angeles County.

Under existing law, revenues distributed to the state as license fees from horse racing are required to be deposited in the Fair and Exposition Fund and various amounts thereof are continuously appropriated to CDFA for various regulatory and general governmental purposes, including health and safety repair projects at fairs. Existing law requires these funds to be allocated in accordance with a three-year project schedule prepared by CDFA. Existing law also provides that if the revenues paid into the Fair and Exposition Fund exceed $13 million, one-half of the amount in excess is required to be transferred to the general fund. This bill would delete provisions that require 75% of the amount in excess of $13 million to be transferred to the general fund. The bill would require the project schedule to be prepared annually by CDFA, and to be submitted to the Joint Committee on Fairs Allocation and Classification, the Senate Committee on Budget and Fiscal Review, and the Assembly Committee on the Budget. The bill would delete certain annual appropriations and would also annually appropriate certain sums for allocation by the Secretary of Food and Agriculture to fairs.

Existing law permits associations and fairs providing audiovisual signals for satellite wagering to form an organization to operate the audiovisual signal. This bill would require the formation of such an organization, and would additionally require the organization to administer parimutuel wagering at satellite wagering facilities on races included in those audiovisual signals. The bill would require that organization be supervised and regulated by CHRB. This bill would also provide for the establishment of the California Classic Series, consisting of six thoroughbred races. The bill would continuously appropriate $4.5 million to CDFA to be distributed for payment of purses in connection with the series. *[S. GO]*

AB 455 (Hoge). Existing law defines the term "parimutuel wagering," for purposes of the Horse Racing Law, as a form of wagering on the outcome of horse races

in which those who wager purchase tickets of various denominations on a horse or horses in one or more races. As amended June 21, this bill would define "parimutuel wagering," for the purposes of the horse racing law, as a form of wagering in which those who wager place bets of various denominations on the outcome of horse races.

Existing law requires CHRB to adopt rules governing, permitting, and regulating mutuel wagering on horse races under the system known as the parimutuel method of wagering. This bill would require the Board to adopt rules governing, permitting, and regulating all mutuel wagering on horse races under that system. This bill would also provide, until January 1, 1997, for the distribution of takeout from a proposition parimutuel pool.

Under existing law, all revenues distributed to the state as license fees from horse racing are required to be deposited in the Fair and Exposition Fund and are continuously appropriated to CDFA for various regulatory and general governmental purposes. This bill, by redefining the term "parimutuel wagering," would authorize additional wagering, and would increase the amount of continuously appropriated license fees, thereby making an appropriation. The bill would also authorize the imposition of a state tax for the purposes of Article XIIIA of the California Constitution. *[S. Appr]*

AB 302 (Tucker). Existing law defines the term "parimutuel wagering," for purposes of the Horse Racing Law, as a form of wagering on the outcome of horse races. As amended May 11, this bill would redefine the term "parimutuel wagering" for the purposes of that law. *[S. Inactive File]*

AB 479 (Hoge). Existing law requires every association or fair that provides a live audiovisual signal of its program to a satellite wagering facility pursuant to a specified provision to cooperate with the operator of the satellite wagering facility with respect to arrangements with the ontrack totalizator company for access to its ontrack totalizator system for purposes of combining parimutuel pools. As introduced February 16, this bill would correct an obsolete cross-reference in that provision. *[S. GO]*

AB 325 (Tucker). Existing law requires signals of both racing programs to be accepted at each live racing meeting within the northern zone and at all satellite wagering facilities eligible to receive these programs when both a fair and a thoroughbred association are licensed by CHRB to conduct live racing meetings within the northern zone during the same calendar period. As amended April 4, this bill would require signals of all racing programs to be accepted at each live racing meeting, without regard to the zone in which the racing program is conducted, and at all satellite wagering facilities eligible to receive these programs when a fair or a specified quarter horse racing association and a thoroughbred association are licensed by the Board to conduct live racing meetings during the same calendar period and time. This bill would also provide for the amount of commissions payable to the quarter horse racing association from satellite wagering during the period described in the bill. *[A. GO]*

AB 370 (Tucker). Under existing law, CHRB may authorize an association licensed to conduct a racing meeting to operate a satellite wagering facility for wagering on races conducted at its racetrack inclosure, subject to specified conditions. Also, the Board may, with the approval of CDFA, permit a county fair, district agricultural association fair, or citrus fruit fair to operate a satellite wagering facility at its fairgrounds, subject to specified conditions. As amended May 11, this bill would permit CHRB, with CDFA's approval, to authorize any county fair or district agricultural association fair to operate a satellite wagering facility located off the fairgrounds but within the boundaries of that fair or district agricultural association, as specified, if the facility conforms with applicable zoning laws and a satellite wagering facility has not operated in that county in the preceding five years. *[A. Appr]*

AB 811 (Allen). Under existing law, CHRB may authorize an association licensed to conduct a racing meeting to operate a satellite wagering facility for wagering on races conducted at its racetrack inclosure, subject to specified conditions; and may, with CDFA's approval, permit a county fair, district agricultural association, or citrus fruit fair to operate a satellite wagering facility at its fairgrounds, subject to specified conditions. As introduced February 22, this bill would require the Board to ensure that the simulcasting of thoroughbred racing after 7:00 p.m. does not limit, interfere with, restrict, or injure the simulcasting of quarter horse racing. *[A. GO]*

AB 1618 (Tucker). Existing law prohibits a satellite wagering facility, except a facility that is located at a track where live racing is conducted, from being located within twenty miles of any existing satellite wagering facility or any track where a racing association conducts a live racing meeting. As introduced February 24, this bill, notwithstanding the foregoing, would permit CHRB to authorize the operation of satellite wagering at any location in the southern zone that operated as a satellite wagering facility in 1993, including a location within twenty miles of a racetrack or another satellite wagering facility. *[A. Appr]*

SB 954 (Maddy). Existing law permits CHRB to authorize an association licensed to conduct a racing meeting to operate a satellite wagering facility for wagering at its racetrack inclosure on races conducted in that association's zone, subject to certain conditions. As amended September 7, this bill would authorize a licensed racing association that is conducting a racing meeting to transmit live audiovisual signals to, and accept wagers on horse races from, one location in the northern zone and two locations in the combined central and southern zones where the association is conducting its racing meeting, if certain requirements are met, including the consent of the operator of any existing track or satellite wagering facility within twenty air miles.

Existing law permits any county fair or district agricultural association in San Joaquin, Humboldt, or Fresno county, with the approval of CDFA and CHRB's authorization, to operate a single satellite wagering facility on leased premises within the boundaries of that fair or district agricultural association. This bill would authorize any fair or district agricultural association, with the approval of CDFA and CHRB's authorization, to conduct satellite wagering at any location within the boundaries of that fair or association, but not within twenty miles of a live racing meeting or an existing satellite wagering facility, except as specified. The bill would require the wagering to be included with the wagers of the satellite wagering facility, except as specified. The bill would also authorize a fair to contract for the operation and management of satellite wagering conducted pursuant to the above provisions with a specified entity.

Existing law requires every horse racing association conducting a racing meeting, except as specified, to pay 1% of its exotic parimutuel pools, excluding wagering at a satellite wagering facility, to the state as an additional license fee. This bill would provide for the allowance of a credit against the additional license fee, and would require the credit to be distributed by the association, 50% as commissions and 50% as purses to the horsemen or horsewomen participating in the racing meeting. The bill would also require CHRB to prepare and submit a report to the legislature on or before January 1, 1998, evaluating the effect of the license fee credit. These provisions would be repealed on January 1, 1999. *[S. Inactive File]*

AB 394 (Cortese). Existing law defines the term "inclosure" for the purposes of the California Horse Racing Law, as, among other things, with respect to a live racing meeting, all areas of the racing association's grounds, as designated by the racing association and approved by CHRB, excluding the public parking lot. As introduced February 14, this bill would delete the language that excludes the public parking lot from the foregoing definition of "inclosure." *[S. GO]*

RECENT MEETINGS

At its June 23 meeting, CHRB adopted an administrative policy for its equine drug testing program. The stated purposes of the policy are to provide guidelines for stewards in adjudicating cases where mitigating circumstances are found to exist, to establish a policy permitting exoneration of the accused or the imposition of lesser penalties than those suggested by the guidelines in cases where mitigating circumstances are found, to recognize in regulatory form that legitimate veterinary therapy is necessary for the health and welfare of the horse, and to clarify section 1844(d), Title 4 of the CCR, regarding authorized levels of listed therapeutic substances in post-race urine test samples, within specified limits. According to the policy, mitigating circumstances should be found to exist where a preponderance of the evidence presented at the hearing establishes to the satisfaction of the stewards that the presence of the drug substance detected resulted from accidental or environmental contamination of feed or other substances present in the horse's surroundings, unless it is shown that such accidental or environmental contamination could have been prevented had reasonable precautions been taken; the accused licensee would be the person expected to take such reasonable precautions; and the accused licensee failed to take such reasonable precautions. The policy also states that mitigating circumstances should be found to exist where a preponderance of the evidence presented at the hearing establishes to the satisfaction of the stewards that the presence of the drug substance detected was the result of third-party intervention or tampering with the horse, which the accused licensee could not reasonably have been expected to prevent.

FUTURE MEETINGS

January 23 in Arcadia.
February in San Mateo.
March 22 in Arcadia.
April 24 in Los Angeles.
May 31 in Emeryville.
June 21 in Sacramento.
July 24 in Del Mar.
August 23 in Del Mar.
September 20 in San Mateo.
October 18 in Arcadia.
November 15 in Cypress.
December 13 in Los Angeles.

DEPARTMENT OF INSURANCE

Commissioner:
Charles Quackenbush
(415) 904-5410
Toll-Free Complaint Number:
1-800-927-4357

Insurance is the only interstate business wholly regulated by the several states, rather than by the federal government. In California, this responsibility rests with the Department of Insurance (DOI), organized in 1868 and headed by the Insurance Commissioner. Insurance Code sections 12919 through 12931 set forth the Commissioner's powers and duties. Authorization for DOI is found in section 12906 of the 800-page Insurance Code; the Department's regulations are codified in Chapter 5, Title 10 of the California Code of Regulations (CCR).

The Department's designated purpose is to regulate the insurance industry in order to protect policyholders. Such regulation includes the licensing of agents and brokers, and the admission of insurers to sell in the state.

In California, the Insurance Commissioner licenses approximately 1,300 insurance companies which carry premiums of approximately $63 billion annually. Of these, 600 specialize in writing life and/or accident and health policies.

In addition to its licensing function, DOI is the principal agency involved in the collection of annual taxes paid by the insurance industry. The Department also collects more than 170 different fees levied against insurance producers and companies.

The Department also performs the following functions:

(1) regulates insurance companies for solvency by tri-annually auditing all domestic insurance companies and by selectively participating in the auditing of other companies licensed in California but organized in another state or foreign country;

(2) grants or denies security permits and other types of formal authorizations to applying insurance and title companies;

(3) reviews formally and approves or disapproves tens of thousands of insurance policies and related forms annually as required by statute, principally related to accident and health, workers' compensation, and group life insurance;

(4) establishes rates and rules for workers' compensation insurance;

(5) preapproves rates in certain lines of insurance under Proposition 103, and regulates compliance with the general rating law in others; and

(6) becomes the receiver of an insurance company in financial or other significant difficulties.

The Insurance Code empowers the Commissioner to hold hearings to determine whether brokers or carriers are complying with state law, and to order an insurer to stop doing business within the state. However, the Commissioner may not force an insurer to pay a claim—that power is reserved to the courts.

DOI has over 800 employees and is headquartered in San Francisco. Branch offices are located in San Diego, Sacramento, and Los Angeles. The Commissioner directs 21 functional divisions and bureaus.

The Underwriting Services Bureau (USB) is part of the Consumer Services Division, and handles daily consumer inquiries through the Department's toll-free complaint number. It receives more than 2,000 telephone calls each day. Almost 50% of the calls result in the mailing of a complaint form to the consumer. Depending on the nature of the returned complaint, it is then referred to Claims Services, Rating Services, Investigations, or other sections of the Division.

Since 1979, the Department has maintained the Bureau of Fraudulent Claims, charged with investigation of suspected fraud by claimants. The California insurance industry asserts that it loses more than $100 million annually to such claims. Licensees currently pay an annual assessment of $1,000 to fund the Bureau's activities.

MAJOR PROJECTS

Quackenbush Proposes New Auto Insurance Rating Factors. On September 22, Commissioner Quackenbush published notice of his intent to repeal existing section 2632.4(a) and adopt new sections 2632.4(a), 2632.5, 2632.7, 2632.8, 2632.9, 2632.11, and 2632.15, Title 10 of the CCR, to specify the mandatory and optional rating factors to be used in determining rates and premiums for private passenger automobile insurance, the manner in which rating factors may be used by insurers ("class plans"), the use of data, and the establishment of data banks.

Historically, auto insurance rates have varied substantially based on age and ZIP