BCE's failure to follow proper rulemaking procedures. Thus, BCE scheduled a public hearing on January 17 in Los Angeles to receive public comments on the proposed modified version.

In November, OAL rejected for the second time BCE's adoption of new section 355(c), which would require certain chiropractors to complete a minimum of 48 hours of a thermography course. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 165; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 198; and Vol. 10, No. 1 (Winter 1990) p. 145 for background information.) At this writing, the Board has not determined whether it will resubmit the new section to OAL for a third time.

In July, the BCE adopted two proposed amendments to section 331.1. First, a preamble was added to the section, which obliges chiropractors to diagnose and recognize conditions and diseases beyond their scope of practice. BCE also added new subsection (d), relating to the approval of chiropractic schools. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 165 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 198 for background information.) The Board had until January 19, 1991, to submit the amendments to the OAL.

In September, the Board adopted final language for new sections 306.1 and 306.2. New section 306.1 would authorize the Board to create Mid-Level Review Panels to review the work of and provide assistance to individual chiropractors, as assigned by the Board, to strengthen various aspects of their practice. New section 306.2 would provide legal representation by the Attorney General's Office in the event that a person hired or under contract to provide expertise to BCE, including one who provides an evaluation of the conduct of a licensee as a Mid-Level Review Panel member, is named as a defendant in a civil action. The section also states that BCE shall not be liable for a judgment rendered against such person. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 165-66 for background information.) At this writing, the Board has not yet submitted these changes to OAL; it has until March 1, 1991 to do so.

LITIGATION:

In *California Chapter of the American Physical Therapy Ass'n, et al.* v. *California State Board of Chiropractic Examiners, et al.*, Nos. 35-44-85 and 35-24-14 (Sacramento County Superior court), petitioners and intervenors challenge BCE's adoption and OAL's approval of section 302 of the Board's rules, which defines the scope of chiropractic practice. Following the court's August 1989 ruling preliminarily permitting chiropractors to perform physical therapy, ultrasound, thermography, and soft tissue manipulation, the parties have engaged in extensive settlement negotiations. An October 5 status conference was postponed indefinitely. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 127; Vol. 9, No. 3 (Summer 1989) p. 118; and Vol. 9, No. 2 (Spring 1989) p. 112 for background information on this case.)

FUTURE MEETINGS:

May 2 in San Diego.
June 20 in Sacramento.
July 25 in Los Angeles.
September 5 in Oakland.
October 17 in San Diego.

CALIFORNIA ENERGY COMMISSION

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

In 1974, the legislature enacted the Warren-Alquist State Energy Resources Conservation and Development Act, Public Resources Code section 25000 *et seq.*, and established the State Energy Resources Conservation and Development Commission—better known as the California Energy Commission (CEC)—to implement it. The Commission's major regulatory function is the siting of powerplants. 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 is empowered to adopt regulations to implement its enabling legislation; these regulations are codified in Division 2, Title 20 of the California Code of Regulations (CCR).

The Governor appoints the five members of the Commission to five-year terms, and every two years selects a chairperson from among the members. Commissioners represent the fields of engineering or physical science, administrative law, environmental protection, economics, and the public at large. The Governor also appoints a Public Adviser, whose job is to ensure that the general public and interested groups are adequately represented at all Commission proceedings.

There are five divisions within the Energy Commission: (1) Administrative Services; (2) Energy Forecasting and Planning; (3) Energy Efficiency and Local Assistance; (4) Energy Facilities Siting and Environmental Protection; and (5) Energy Technology Development.

CEC publishes *Energy Watch*, a summary of energy production and use trends in California. The publication provides the latest available information about the state's energy picture. *Energy Watch*, published every two months, is available from the CEC, MS-22, 1516 Ninth Street, Sacramento, CA 95814.

MAJOR PROJECTS:

SDG&E Powerplant Proceeding Suspended. On November 30, CEC issued an order granting San Diego Gas & Electric Company's (SDG&E) November 28 request for an immediate, indefinite suspension of its Notice of Intention (NOI).

In December 1989, SDG&E filed an application with CEC for construction of a 460-megawatt (MW) combined cycle project. The project will consist of two combustion generators, two heat recovery steam generators, and one steam turbine generator. SDG&E proposes to locate the project at one of five alternative sites. In March 1990, CEC accepted SDG&E's NOI to seek certification for the project, and commenced the twelve-month NOI process. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 168-70; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 200-01; and Vol. 10, No. 1 (Winter 1990) p. 147 for background information.)

Effective November 30, the processing of the NOI was suspended until SDG&E requests a reinstatement. Pursuant to CEC's order, SDG&E must inform the proceeding's hearing officer every 90 days, in writing, of its intention to continue the suspension. Any motion by SDG&E to reinstate the proceeding must be filed with CEC at least 90 days prior to the intended reinstatement date.

SDG&E South Bay Unit 3 Augmentation Project AFC. In January 1990, SDG&E filed an Application for Certification (AFC) with CEC for a baseload demonstration augmentation project to be located within the confines of SDG&E's existing South Bay Power Plant in Chula Vista. The plant is currently a four-unit station which was built during the 1960s and early 1970s. The proposed project consists of a new combustion turbine generator, heat recovery steam generator, and associated equipment as well as modification to existing Unit 3. Natural gas will be the primary fuel used, with low sulphur No. 2 fuel oil serving as a back-up.

On October 5, SDG&E requested an indefinite suspension of the project, which CEC granted on October 10. The

expected construction start date for the project is February 1, 1992, with a projected on-line date of May 1993.

CEC's Fifteenth Anniversary. On December 4, CEC hosted a $20,000 reception to mark its fifteenth anniversary. In attendance were several state legislators, including Senator Alfred Alquist, who co-authored the 1974 bill which created the Commission. The presentation of awards to the winners of the 1990 Energy Poster Contest for elementary school students took place at the celebration. The fifth annual contest was held as part of National Energy Awareness Month. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 170 for background information.) There are twelve winners, and each winner's poster will be featured in the 1991 Energy Commission calendar.

Of the $20,000 tab, approximately $12,000 of the funding came from private companies and law firms which regularly appear before the Commission. Among the private contributors were ARCO, Luz International, Ltd., U.S. Windpower, California Energy Company, Acurex, the Pipe Trades Council of Northern California, Skadden, Arps, Slate, Meagher & Flom, Envirosphere, and some of the state's largest utility companies—SDG&E, Pacific Gas and Electric Company, Southern California Edison, and Southern California Gas. The state paid $4,400 for decorations, lights, portable heaters, and loudspeakers, and another $3,600 for transportation costs for children (and their families) who were honored in the poster contest.

CEC Chair Charles Imbrecht said he asked a wide range of players in energy who are frequently antagonists to pay for the party, to ensure that there was no appearance of favoritism. However, CEC's solicitation and acceptance of monies from private parties whose fates are decided by CEC drew fire from public interest organizations, including California Common Cause.

Programs Funded through SB 880. SB 880 (L. Greene), enacted in 1986, appropriates $40.5 million to CEC, the California Department of Transportation, and the California Energy Extension Service for a wide range of energy activities. Money for SB 880-funded programs comes from the federal Petroleum Violation Escrow Account (PVEA), which was established as a result of federal court-ordered fines paid by major oil companies for overcharges on petroleum products sold during the 1970s. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 91 for background information on PVEA.) Programs using PVEA funds are subject to specific federal regulations and must meet the approval of the U.S. Department of Energy. In accordance with federal funding restrictions, SB 880 funds may be used for demonstration projects, energy efficiency improvements in existing equipment and facilities, technical energy audits, and training.

SB 880 allocates $29 million to CEC: $12 million for interagency agreements with state-supported universities and colleges to develop energy projects on their campuses; $3 million for loans to help small school districts purchase, maintain, and evaluate energy efficient equipment and small power systems; and $14 million for a local jurisdiction energy assistance program to provide energy assistance to cities, counties, regional planning agencies, or any combination thereof formed for the joint exercise of any power. Of that $14 million, $10 million is for technical assistance, training, and support services, and the remaining $4 million is for financial assistance.

As required by SB 880, CEC has appointed a ten-member advisory committee to make recommendations on the design and ongoing implementation of the local jurisdiction energy assistance program. The Local Jurisdiction Advisory Committee (LJAC) meets on a bimonthly basis and is composed of members with local government energy project development and energy management experience.

CEC is currently using SB 880 funds for five programs: the Higher Education Program funds 39 energy projects on University of California campuses and 32 on California State University campuses; the Small School District Program provides technical and financial assistance to 49 districts for energy-efficient improvements in schools; the Energy Partnership Program provides technical and financial assistance as well as training to 156 local governments; the Siting and Permitting Assistance Grant Program provides grants and technical assistance to 24 local governments; and the Local Contingency Planning Program helps local governments develop contingency plans to provide vital public services in the event of an energy shortage or emergency.

The California Energy Extension Service uses the $4 million allocated to it by SB 880 to provide technical assistance, training, and support services for the planning and management of all aspects of energy management for K-12 schools throughout the state. During the past two years, the program has provided more than 250 school districts with assistance for energy surveys, energy accounting, energy plan development, maintenance training, and curricular and co-curricular energy-related activities for students.

In fiscal year 1990-91, CEC plans to use SB 880 funds to start four targeted energy assistance programs for local governments. The LJAC will participate in this process by advising CEC on the energy-related needs of local governments and the opportunities for programs to meet these needs. The New Detention Facilities Program will provide consultants to design energy-efficient detention facilities and will develop a handbook for architects on designing energy-efficient jails. With the support of the LJAC, CEC has designated $100,000 from the current Energy Partnership Program to be used immediately for this new program, and has allocated up to $400,000 to be used for these purposes over the next three years. The Wastewater Treatment Facilities Program will help local governments identify opportunities for improvements in wastewater treatment equipment which would reduce energy use or costs. This program will also provide training to plant operators on how to reduce energy costs through changes in operating procedures. The County Hospitals Energy Conservation Program will target 23 small and rural county hospitals which were selected based on the immediate need for improvements in their energy systems. This program will provide engineering consultants to evaluate each hospital's energy savings potential and identify cost-effective energy savings projects. CEC staff will work with hospital administrators to identify options for project financing, and training will be provided to hospital maintenance staff to help develop energy-saving maintenance practices. Finally, the Energy Manager Support Program is designed to encourage local governments to designate energy managers and to provide energy managers and other administrative staff with the tools and training needed to track energy use and to identify potential efficiency improvement opportunities.

CEC Proposes Amendments to Energy Efficiency Standards for Nonresidential Buildings, Highrise Residential Buildings, and Hotel/Motels, and Provisions Applicable to All Residential and Nonresidential Buildings. Public Resources Code sections 25402(a), (b), and 25402.1-25402.8 state that CEC shall adopt, periodically update, and implement regulations that prescribe design and construction standards to increase the efficiency of energy use in buildings. These regulations, which are codified in Chapter 2-53, Title 24 of the CCR, specify energy efficiency

requirements and also contain provisions on compliance and enforcement. In this proposed regulatory action, CEC proposes major changes in the organization, wording, and structure of the standards applicable to nonresidential buildings, highrise residential buildings over three stories, and hotels/motels, to make compliance and enforcement substantially easier. CEC also proposes strengthening some substantive requirements, particularly in the areas of lighting and building envelopes (walls, roofs, windows, and floors).

The principal problem addressed by the proposed amendments is the need to consolidate and simplify the current standards. The current standards have separate requirements for "second generation nonresidential occupancies" (offices and retail and wholesale stores), "first generation nonresidential occupancies" (all other nonresidential occupancies), and "first generation residential occupancies" (residential buildings over three stories and hotels/motels). The proposed amendments would consolidate all the occupancies into one nonresidential standard, thus eliminating approximately 50 pages of regulations.

The second major problem addressed by the proposed amendments concerns the methods with which building designers demonstrate compliance with the standards. In both the current standards and the proposed amendments, there are two basic approaches. Under the "prescriptive" approach, a building must have certain specified energy conservation features (or features that meet designated criteria). Under the more flexible "performance" approach, a building must be designed to consume no more energy than is allowed by an "energy budget," which is expressed in terms of energy consumption per square foot per year. Additionally, both approaches require the building to have certain basic and essential conservation features, often referred to as the "mandatory measures" of the standards.

Under the current prescriptive approach for first generation nonresidential buildings, the requirements are separated by building component—envelope, space conditioning, lighting, and water heating. Second generation nonresidential buildings must meet the requirements of an entire package of features that include all of the building components. First generation residential buildings need only meet prescriptive envelope and water heating requirements. The proposed amendments would consolidate all the requirements and make prescriptive requirements for each component applicable to all building types.

Under the current performance approach, second generation nonresidential buildings and first generation residential buildings must demonstrate compliance by showing that the building meets a CEC-defined fixed energy budget for the proposed occupancy type. The fixed energy budgets require the occupancy to be known at the time of the initial permit application, and a separate energy budget to be compiled for each occupancy type covered in the scope of the standards. Fixed energy budget requirements are sometimes impractical and create inconsistencies in the requirements of the standards based on differences in construction type, building shape and orientation, and building location, even among buildings of the same occupancy type.

The proposed amendments would use a custom energy budget approach that would allow permit applicants to compare the energy use of their proposed design to a standard design building that has the same size, shape, orientation, location, and construction type as the proposed design, plus the energy conservation features specified under the prescriptive approach. If the proposed design consumes less energy than the budget of the standard design, the building complies. This amendment would make the budgets more accurate and help reduce the inconsistencies in the current performance approach.

The proposed amendments also provide increased fairness and simplicity of compliance for tenant spaces. Many nonresidential buildings are designed before the occupants are known; further, after initial occupancy, tenants may change. The proposed amendments would simplify the process of demonstrating compliance for tenant spaces within a building. For example, under the current second generation nonresidential standards, the features of the building that were specified to demonstrate compliance when the building was first permitted must be used by all new construction in that building for the life of the building. This requires the designer to make commitments to provide space conditioning and lighting equipment when only the building envelope is being built and future occupancy types are unknown. The proposed amendments are designed so that compliance would be demonstrated only for the space and systems that are included in the permit application. Additionally, the amendments would restrict trade-offs between envelope, space conditioning, lighting, and water heating requirements in the prescriptive approach, so that each component must meet the requirements applicable to it, but no requirements are applicable to components not proposed at that time.

The proposed amendments would increase the energy efficiency required by the standards, with corresponding benefits not only for building owners and tenants, but for all citizens of the state. The major areas of increased energy efficiency are improvements in the building envelope standards; increased efficiency for space heating and cooling equipment; improved lighting efficiency through controls; and enhancing compliance and enforceability through simplification and clarification.

CEC's preliminary analysis indicates that over a 15-year period, "life cycle costs" (the costs of installing conservation measures, plus the cost of monthly utility bills) of new nonresidential buildings are expected to decrease by over $60 million throughout the state. As a result, the proposed amendments meet the statutory requirements that they be cost-effective (*i.e.*, any increase in the initial cost of the building would be more than made up by the savings in utility bills).

The proposed regulations also implement AB 4655 (Tanner) (Chapter 1286, Statutes of 1988), which added section 25402.8 to the Public Resources Code and instructed CEC to consider the effects of its building standards on indoor air pollution. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 114 for background information.) CEC's current standards include provisions requiring minimum outdoor air ventilation rates in various building types in order to help dilute the concentration of potential contaminants. The proposed amendments would in some cases increase the rates, while also making more specific the methods to use to achieve those rates.

One of CEC's main goals in proposing these amendments is to make the standards easier to use for those who must comply with and enforce them. The proposed amendments would incorporate portions of various national consensus standards (such as those developed by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers) used by the building industry, add many new definitions, make the standards consistent with current construction practices, reduce the number of exceptions, reorganize the sections along design disciplines, and improve the wording of the standards.

CEC held a public comment hearing on November 15 and a public hearing to consider adoption of the proposed amendments on December 12. CEC took no action at the December 12 hearing; at

this writing, CEC has yet to adopt the proposed regulatory amendments.

Proposed Amendments to the Energy Efficiency Standards for New, Low-Rise Residential Buildings, Additions, and Alterations. Under Public Resources Code section 25402(a) and (b), new low-rise (three or fewer stories) residential buildings must comply with energy conservation standards prescribed by CEC. These standards are codified in Title 24, California Code of Regulations, Chapter 2-53, sections 2-5301 through 2-5304, 2-5311 though 2-5319, 2-5351 through 2-5352, and 2-5361 through 2-5364. CEC has not conducted a general update of the standards for residential buildings since 1981, and conducted only a limited update in 1987. Since that time, many building products that allow greater energy efficiency, such as improved fenestration products (windows) and better insulation products, have become available. Construction costs, energy prices, and other assumptions that affect cost-effectiveness calculations have changes. New federal efficiency standards for heating and cooling equipment have become effective, replacing previous state standards. Thus, CEC has determined that there is a general need to update these standards to account for the changes that have occurred over the last several years.

As described previously, builders may comply with the standards by following either a performance approach or a prescriptive approach. In the performance approach, builders must demonstrate that their buildings will meet an "energy budget" and contain a number of "mandatory features." Builders must use an approved calculation method to show that the building's proposed design and features will meet the budgets. In the prescriptive approach, builders must also meet the mandatory features requirements, but they need not demonstrate compliance with a budget. Instead, the builder may install one of five prescriptive packages of measures which are identified as A, B, C, D, or E.

The current standards specify two types of budgets: one for water heating systems and a second for space conditioning (cooling and heating) systems. The water heating budgets are fixed and are specified in total allowed BTUs per dwelling. The space conditioning budgets vary; a builder determines this budget by using a computer program to calculate what the total energy consumption for space conditioning would be if the proposed building contained all of the measures listed in either package D (for a slab-floor building) or package E (for a raised floor building).

CEC proposes to reorganize and clarify the existing standards and bring most of the requirements that affect low-rise residential buildings together. Each section will be given a new title. The language explaining the performance approach will be revised and unnecessary language eliminated. The proposed changes would eliminate fixed water heating budgets and replace them with a formula for calculating the budgets.

CEC also proposes to change some of the measures in the prescriptive packages, including changes to make heating and cooling equipment conform with federally mandated efficiency requirements. Also proposed are revisions to some of the mandatory features requirements and the requirements for additions and alterations. Changes affecting insulation requirements, fireplaces, equipment sizing, thermostats, lighting, pipes and tanks, ducts and fans, averaging and multiple orientations, glazing, shading, thermal mass, infiltration, electric resistance heating, heat exchangers, and other efficiency measures will be considered. CEC also proposes to update references to national and industry standards.

The proposed action may affect housing costs in a number of ways; some sections will increase and others will decrease initial construction costs. CEC investigated the cost-effectiveness of increased efficiency requirements for the standards as a whole and for packages D and E individually. The studies indicated that the proposed changes are cost-effective and at or near the lowest cost to the consumer on a life-cycle basis.

For example, changes under consideration in packages D and E should have the following effects on housing costs: the requirement of R-19 or higher wall insulation in more zones will increase initial construction costs, but lower heating and cooling bills; deleting slab edge insulation in certain zones will decrease construction costs; reducing the number of zones that require shading will lower construction costs but raise cooling bills; reducing thermal mass requirements may reduce some construction costs; tightening glazing (fenestration products) requirements will increase construction costs but should decrease utility bills.

The repeal of package C as a solar water heating package should have no effect, as builders may install solar water heaters and trade off the savings in water heating energy using the performance approach. CEC cannot determine the effects of converting package C to an electric resistance heating package at this time. The proposed package is based on life-cycle cost analyses, which indicate that fairly stringent measures would be cost-effective to the occupant.

CEC held hearings on November 9 and 27 and on December 12 to receive public comment on the proposed amendments; at this writing, the Commission has yet to take action on the regulatory changes.

LITIGATION:

On September 18, the Los Angeles Department of Water and Power (LADWP) filed a petition for writ of mandate in Los Angeles County Superior Court, challenging CEC's final decision that LADWP's Harbor Generating Station Repowering Project is subject to CEC's jurisdiction because it involves "construction of...[a] facility" under Public Resources Code section 25500, and a "modification of an existing facility" under Public Resources Code section 25123. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 167-68 for detailed background information on this case.)

On December 11, in *Department of Water and Power, City of Los Angeles v. CEC*, No. BS-003230, the superior court found in favor of LADWP and granted its petition for writ of mandate. The court found that the Repowering Project cannot be considered a "modification of an existing facility" under section 25123 because the alteration proposed will not result in "a 50-megawatt or more increase in the electric generating capacity" of the Harbor Generating Station; the court stated that "[t]he 50-megawatt increase element is missing regardless of whether the Harbor Generating Station is treated in the aggregate as one thermal powerplant, or whether *each individual generating 'unit'* in the Harbor Generating Station is treated as a separate 'thermal powerplant'" (emphasis original). The court also found that the proposed modifications to the Harbor Generating Station do not fit within the term "construction of any facility" in section 25110, ruling as a matter of law that the section 25110 "construction" jurisdiction of the Commission "is limited to the construction of *new, previously not existing* powerplants with a capacity of 50 megawatts or more" (emphasis original).

CEC has filed a notice of appeal in the Second District Court of Appeal (No. B-055524). At this writing, no briefing schedule has been established.

RECENT MEETINGS:

At its November 14 meeting, CEC considered a petition filed by A.C.E. Cogeneration Company (ACC) requesting CEC to issue an order that no amendment to CEC Decision 86-AFC-1 is required as a result of the sale by

Kerr-McGee Chemical Corporation of certain facilities providing air emission reductions for the A.C.E. project to North American Chemical Corporation (NACC). In the alternative, ACC requested an order approving the amendment to the A.C.E. decision to recognize NACC as the new owner of those facilities.

Kerr-McGee received CEC certification for its Argus Cogeneration Expansion (A.C.E.) project in January 1988; in May 1988, CEC approved an amendment request from Kerr-McGee to change the ownership of the A.C.E. project from Kerr-McGee to ACE Power Partners, a California general partnership forming the ACC. Kerr-McGee remained as operator of the project, retaining a limited partnership. Kerr-McGee has now decided to sell its chemical plants to NACC. NACC is a corporation formed solely for the purpose of acquiring Kerr-McGee's chemical operations. Kerr-McGee will no longer have any operations in California.

The petition explained that the partners of A.C.E. include affiliates of Pyropower Corporation, the supplier of the boiler, and Constellation Energy, a subsidiary of Baltimore Gas and Electric. Through affiliated entities, both of these corporations have powerplant operating experience. The petition also states that NACC is primarily interested in owning and operating only the chemical facilities; Kerr-McGee will no longer have operations in California; the lenders to NACC financing the acquisition of the chemical facilities do not desire to be involved with the A.C.E. project; and Pyropower and Constellation possess operating experience applicable to the project. Thus, the partners of A.C.E. desire to operate the project through their affiliates, releasing both NACC and Kerr-McGee from any further ownership or operational liability in connection with the project except for the continuing obligation of NACC to take steam and the continuing obligations to provide critical services to the project (such as water).

CEC voted to approve an amendment to Decision 86-AFC-1 to a statement saying that Kerr-McGee is selling its interest to the remaining members of A.C.E. and that NACC be allowed to assume Kerr-McGee's position.

Also at its November 14 meeting, CEC approved a loan of $262,000 in Energy Conservation Assistance Act (ECAA) funds to the County of Santa Clara for 67% of the costs of a lighting retrofit project at four county-owned facilities. The ECAA, enacted in 1979, established a revolving loan fund to assist schools, hospitals, public care institutions, and local governments in improving the energy efficiency of their facilities. ECAA loans may be used to finance the cost of up to 100% of energy efficiency projects in eligible institutions. In order for a project to be considered eligible for a loan, the energy conservation project must be technically and economically feasible and have a simple payback of 6.5 years.

FUTURE MEETINGS:

General CEC meetings are usually held every other Wednesday in Sacramento.

HORSE RACING BOARD

Executive Secretary:
Dennis Hutcheson
(916) 920-7178

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 positions, 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 is not eligible 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. However, 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:

Trifecta Wagering. At this writing, CHRB is revising the text of its proposed amendment to section 1979, Title 4 of the CCR, to allow trifecta wagering in California on an experimental basis for one year. CHRB's original regulatory proposal was rejected by the Office of Administrative Law (OAL) on September 19. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 173; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 202-03; and Vol. 10, No. 1 (Winter 1990) p. 148 for background information.) CHRB plans to resubmit the rulemaking file to OAL in the near future.

Horsemen's Split Sample. At its October and November meetings, CHRB deferred action on revising its proposed amendments to section 1859.25, Title 4 of the CCR, regarding the horsemen's split sample drug testing program. The original amendments adopted by CHRB were rejected by OAL in September. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 174 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 203 for background information.) CHRB was scheduled to revisit this issue at its January 25 meeting.

Blocking of Legs and Ankles. On November 30, CHRB adopted proposed amendments to section 1847, Title 4 of the CCR, which define and prohibit procedures which constitute the blocking of horses' legs and ankles. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 174 for background information.) At this writing, the proposed amendment is awaiting OAL approval.

Due to the serious dangers posed by blocking (a procedure under which, by some means, a horse is desensitized to pain in the leg, ankle, or hoof), CHRB was scheduled to hold a public hearing on January 25 to adopt a new section to the CCR which would establish penalties for those found guilty of blocking horses. Proposed section 1405.1 would require any trainer found guilty of running a blocked horse to be suspended for life. Moreover, the section would also require any veterinarian found guilty of blocking a horse to be suspended for life and referred to the Board of Examiners in Veterinary Medicine with a recommendation that his/her license to practice veterinary medicine be revoked.

Occupational Licenses and Fees. On December 21, OAL disapproved the Board's proposed amendment to section