



# REGULATORY AGENCY ACTION

the CEC to study the benefits of increasing the surface reflectance of buildings, streets, and highways to conserve energy and reduce global warming, is pending in the Senate Energy and Public Utilities Committee.

*SB 1527 (Hart)*, which would require the CEC to take into account the environmental costs to society of consuming fossil fuels when it considers the cost-effectiveness of residential and commercial building standards, is pending in the Assembly Natural Resources Committee.

## RECENT MEETINGS:

In March, the Commission considered and denied a petition from Pacific Thermonetics, Inc. (PTI). PTI requested that the CEC reverse Commissioner Noteware's February 16 order denying PTI's motion to reopen the evidentiary record on its application for certification of the Crockett Cogeneration Project (Docket No. 84-AFC-3). Because the record has been closed, PTI may not introduce any further evidence on its application. PTI sought to introduce evidence that additional safety measures can be implemented at the Crockett Cogeneration Project, and that the project poses no credible risk of public harm from ammonia used in the project. PTI also desired to introduce into the record a proposed community assistance program which it claims would commit \$250,000 annually to the local community. Extensive oral testimony was heard in support of C&H Sugar, which has a refinery at the Crockett location.

Much public testimony was heard in opposition to the petition. Most argued that the certification process has consumed five years, when the average time for such a proceeding is one year. The Commission agreed. CEC staff opposed the motion to reopen, questioning whether the proposed additional safety measures would adequately protect against certain hazards, and noting that even if the new proposal eliminates the ammonia risk, the project would still not pass the need test under Electricity Report 5. Additionally, if the record were reopened, the permit for the project issued by the Bay Area Air Quality Management District would have to be renewed.

At the March meeting, Commissioner Imbrecht stated that the Commission should construe liberally the opportunity for parties to be heard, and that he still had questions about whether PTI had received full due process. However, the petition was denied, the record remains closed, and the decision to certify Crockett will be made based on the

existing record.

## FUTURE MEETINGS:

General CEC meetings are held every other Wednesday in Sacramento.

## HORSE RACING BOARD

*Secretary: Leonard Foote*  
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The California Horse Racing Board (CHRB) is an independent regulatory board consisting of seven members. Each member serves a four-year term and receives no compensation other than expenses incurred for Board activities.

The purpose of the Board is to allow parimutuel wagering on horse races while assuring protection of the public, encouraging agriculture and the breeding of horses in this state, generating public revenue, providing for maximum expansion of horse racing opportunities in the public interest, and providing for uniformity of regulation for each type of horse racing.

The Board has jurisdiction and power to supervise all things and people having to do with horse racing upon which wagering takes place. If an individual, his/her spouse, or dependent holds a financial interest or management position in a horse racing track, he/she cannot qualify for Board membership. An individual is also excluded if he/she has an interest in a business which conducts parimutuel horse racing or a management or concession contract with any business entity which conducts parimutuel horse racing. (In parimutuel betting, all the bets for a race are pooled and paid out on that race based on the horses' finishing positions, absent the state's percentage and the track's percentage.) Horse owners and breeders are not barred from Board membership. In fact, the legislature has declared that Board representation by these groups is in the public interest.

The Board licenses horse racing tracks and allocates racing dates. It also has regulatory power over wagering and horse care.

## MAJOR PROJECTS:

*Blue-Ribbon Committee on Drug Testing.* On March 23, CHRB Chair Leslie Liscom appointed a blue-ribbon committee and charged it with the following assignment: "Evaluate the alternatives necessary to restore confidence by evaluating and improving the testing program in the CHRB's drug testing

program." (See CRLR Vol. 9, No. 2 (Spring 1989) p. 114 for background information.)

At the Board's April 28 meeting in Los Angeles, the Committee made the following recommendations: the establishment of an Equine Medical Director position, who would report directly to the Board and supervise its equine testing program; CHRB initiation of a supplemental testing program at Industrial Diagnostic Systems Laboratories; development of a model program for increased security and enforcement; and finally, methods of financing these proposals. At this writing, the Board is considering the Committee's recommendations.

*Review of Applicants' License History.* The Board has recently expressed concern about its procedures for licensing individuals with repeated infractions and violations of the Horse Racing Law and the Board's rules and regulations. Consequently, at CHRB's May 18 meeting in Sacramento, the Board adopted staff's proposal that any licensee with an accumulation of thirty days or more suspension be referred to the Board's Sacramento office for licensing consideration. This referral would not constitute a denial or refusal, but would merely enable the Board to consider whether licensing the individual is in the best interests of horse racing.

*Regulation Changes.* At its April meeting, the Board adopted an amendment to section 1481(f), Title 4 of the California Code of Regulations (CCR). The amendment increases the number of individual persons conducting racing operations as a syndicate or general partnership from five to ten general partners before payment of a registration fee as a multiple ownership entity is required.

On May 19, the Board adopted regulatory action to amend section 1459, Title 4 of the CCR, to delete the requirement that public telephones in the racing enclosure be locked during the racing program. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 115 for background information.)

## LEGISLATION:

*AB 425 (Floyd)* would repeal the statute providing that no state lottery game may use the theme of horseracing or be based on the results of a horse race. The bill would provide that state lottery games may be based only upon the results of horse races sanctioned by the CHRB. The bill is in the Assembly inactive file.

*AB 726 (Hill)* would authorize the Board to allow associations licensed to conduct quarter horse meetings to in-



clude appaloosa races and Arabian races with the consent of the quarter horse horsemen's association. This bill is pending in the Assembly Governmental Organization Committee.

*AB 730 (Wright)* would make legislative findings and declarations regarding the California thoroughbred racing and breeding industries and require the Legislative Analyst to conduct a study to determine the industry's contribution to the state's economy, determine the state of the industry's economic health, and make recommendations to strengthen the industry's position. This bill is pending in the Assembly Governmental Organization Committee.

*AB 1098 (Clute)* would require the Board to annually rotate stewards to different race tracks around the state. The bill is pending in the Senate Governmental Organization Committee.

*AB 2235 (Statham)* would require an organization operating an advertised signal system and administering the pari-mutuel operations of satellite wagering facilities to bear the costs of encoding audiovisual signals and wagering data, and the costs of operating a separate delivery system for wagering information displays. This bill is pending in the Assembly Governmental Organization Committee.

*SB 519 (Maddy)* would authorize the Board to adopt regulations to allow the entering of thoroughbred horses and appaloosa horses in quarter horse races at a distance not exceeding 5-1/2 furlongs at those meetings. The bill would also require those regulations to provide that no single breed of horse shall make up more than one-half the number of horses in the race. This bill is pending in the Assembly Ways and Means Committee.

The following is a status update on bills discussed in detail in CRLR Vol. 9, No. 2 (Spring 1989) at pages 114-15:

*AB 82 (Floyd)*, which would authorize an association to revise the estimate for the aggregate handle during a meeting if the Board determines that the revision is necessary, is pending in the Senate Appropriations Committee.

*AB 169 (Floyd)*, which would provide for mixed breed racing with pari-mutuel wagering which includes barrel races and steeplechase races, is pending in the Senate Appropriations Committee.

*AB 170 (Floyd)*, which would require CHRB to include in its annual report a tabulation of injuries, fatalities, and comparative accident rates for all racing and training venues in California, and to include recommendations concerning worker safety impacts of improvements

in race track design, jockey equipment, racing procedures, and track and facility maintenance, is pending in the Senate Governmental Organization Committee.

*AB 172 (Floyd)*, which would require every satellite wagering facility to provide accommodations for families with children, failed passage in the Assembly.

*AB 176 (Floyd)*, which would delete the requirement that live audiovisual signal of night harness or quarter horse races in the central zone be offered to satellite wagering facilities in the northern zone during periods of the day when there is not night racing in the northern zone, is pending in the Senate Governmental Organization Committee.

*AB 199 (Floyd)*, which would create a Stewards' Committee to advise the CHRB on matters relating to stewards and racing officials, is pending in the Senate Appropriations Committee.

*AB 216 (Floyd)*, as amended, would enact the California Drug Free Horseracing Act of 1989 to require the Board to adopt rules and regulations to eliminate the drugging of horses entered in horse races. The bill is pending in the Senate Governmental Organization Committee.

*AB 347 (Floyd)*, as amended, requires that one-half of any revenue from license fees payable to the state from satellite wagering facilities located at fairs which is deposited in a separate account in the Fair and Exposition Fund, in excess of \$11,000,000 in any fiscal year, be transferred to the General Fund. This bill has been chaptered (Chapter 74, Statutes of 1989).

*SB 56 (Maddy)*, which would allow the Board to authorize the satellite wagering facility at the 22nd District Agricultural Association to conduct satellite wagering on races run in the northern zone for a three-year pilot period, is pending in the Senate Governmental Organization Committee.

*SB 1294 (Maddy)*, which would require that 6% of the handle from wagers of harness, quarter horse, appaloosa, mixed breed and fair meetings at satellite wagering facilities, or the amount of actual operating expenses, be distributed to a specified organization for operating the audiovisual signal, is pending in the Assembly Governmental Organization Committee.

## RECENT MEETINGS:

At its April 28 meeting, CHRB again discussed proposed regulatory action to amend sections 2056-2060, Title 4 of the CCR, regarding simulcast wagering. (See CRLR Vol. 9, No. 2 (Spring 1989) p.

144 and Vol. 9, No. 1 (Winter 1989) pp. 100-01 for background information.) Since some slight changes were made, the Board re-released the proposed language for a fifteen-day comment period which ended May 29. The Board was scheduled to adopt the proposed regulatory changes at its June 23 meeting in Cypress.

## FUTURE MEETINGS:

To be announced.

## NEW MOTOR VEHICLE BOARD

*Executive Officer: Sam W. Jennings (916) 445-1888*

The New Motor Vehicle Board (NMVB) licenses new motor vehicle dealerships and regulates dealership relocations and manufacturer terminations of franchises. It reviews disciplinary action taken against dealers by the Department of Motor Vehicles. Most licensees deal in cars or motorcycles.

The Board also handles disputes arising out of warranty reimbursement schedules. After servicing or replacing parts in a car under warranty, a dealer is reimbursed by the manufacturer. The manufacturer sets reimbursement rates which a dealer occasionally challenges as unreasonable. Infrequently, the manufacturer's failure to compensate the dealer for tests performed on vehicles is questioned.

The Board consists of four dealer members and five public members. The Board's staff consists of an executive secretary, three legal assistants and two secretaries.

## MAJOR PROJECTS:

*Status Report on Certification Fees.* Pursuant to Business and Professions Code section 9889.75, NMVB has been collecting fees from manufacturers and distributors of new motor vehicles for the purpose of funding the Bureau of Automotive Repair's (BAR) certification of third party dispute programs. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 101; Vol. 8, No. 4 (Fall 1988) p. 116; and Vol. 8, No. 3 (Summer 1988) p. 123 for complete background information.) The collection process began on February 2 and to date, \$695,997.30 in fees has been collected. BAR was scheduled to hold a hearing on its proposed regulations regarding the expenditure of these fees on July 18. BAR's regulatory process has been delayed due to the fact that two state courts—New York and