



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

FUTURE MEETINGS

March 4 and 18 in Sacramento.

April 1, 15, and 29 in Sacramento.

HORSE RACING BOARD

Secretary: Leonard Foote
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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. This Board may regulate more freely than many other agencies.

MAJOR PROJECTS:

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

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

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

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

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

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

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

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

Expansion of Parimutuel Wagering. In addition to the proposed intertrack



wagering mentioned above, CHRB has discussed additional methods for expanding parimutuel wagering opportunities in southern California. Ideas such as the teletrack theatres currently used in Connecticut and New York, telephone account wagering, and interactive cable television systems were debated at the Board's December meeting. CHRB recommends to the Governor and to the legislature that it be given the statutory authorization to proceed with the controlled expansion of parimutuel wagering in California.

Regulations. The Office of Administrative Law (OAL) has approved CHRB's amendments to sections 1959 and 1977 of Title 4 of the California Administrative Code. OAL also approved CHRB's adoption of section 1976.5 regarding Special Unlimited Sweepstakes. All of these amendments are now effective. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 87.)

On November 6, OAL disapproved CHRB's proposed amendment to section 1976 of the Code, relating to the carry-over provision of monies bet on Unlimited Sweepstakes horse races. As its reasons for disapproval, OAL stated that the change is regulatory in effect and thus fails to comply with the requirements of Title 1, section 100 of the California Administrative Code, and that it violates the "clarity" standard set forth in Government Code section 11349.1(a)(3).

Section 100(b)(3) of Title 1 allows state agencies to make regulatory changes without adhering to the procedural and substantive requirements of Articles 5 and 6 of Title 2, Division 3, Chapter 3.5 of the Government Code (see Government Code sections 11346-11349.11), so long as the changes do not "alter the requirements, rights, responsibilities, conditions or prescriptions contained in the existing regulation." By changing the maximum carry-over pool amount from \$5,000,000 to "\$5,000,000 or a maximum amount to be specified in the association's license application," CHRB has, according to OAL, significantly altered the rights of the racing associations because some of them could be restricted to amounts less than \$5,000,000.

OAL found the proposed amendment to violate the clarity requirement because, while section 1976(1) would refer to amounts specified in the racing association's license application, section 1976(2) would still refer only to amounts exceeding \$5,000,000. Without changes to both sections, the regulation would be unclear.

LEGISLATION:

SB 1499 (Maddy) was supported by CHRB, signed by the Governor, and became effective January 1, 1987. The bill allows for the expansion of inter-track simulcast wagering to all fairs in the northern zone as well as to fairs in the counties of Kern, Santa Barbara, and San Luis Obispo.

SB 1511 (Maddy), effective immediately, attempts to adjust perceived inequities in the distribution of intertrack revenues among the state, the horsemen, and the racing associations. The bill requires that 1.5% of the amount handled by a satellite wagering facility at a fair enclosure, or an amount to be determined by CHRB as equal to actual expenses (whichever is less), be distributed to the association which incurs expenses related to satellite wagering prior to the distribution for license fees, commissions, and purses.

AB 604 (Papan) was approved by the Governor on September 26, 1986 and filed with the Secretary of State on September 29, 1986. Under previously-existing law, the license fees for all racing associations were based on the total amount handled in the parimutuel pool at each association. AB 604 now excludes monies wagered at satellite wagering facilities from that amount. The bill also increases the number of weeks which may be allocated for thoroughbred racing in the northern zone from 16 to 22 weeks, and incorporates the changes in revenue distribution made by SB 1511.

AB 195 (Cortese), introduced January 6, would require any county fair, district agricultural association fair, or citrus fruit fair in the northern zone, or in the counties of Kern, San Luis Obispo, or Santa Barbara, which conducts satellite wagering to make a specified deduction from its total parimutuel wagers for distribution to the city or county where the meeting is located.

LITIGATION:

In *Nelson Jones v. CHRB and Hollywood Park Operating Co.*, 2 Civ. B015580 (September 23, 1986), the Second District Court of Appeal held that a thirty-day statute of limitations applies to bar a race track patron's petition for writ of administrative mandamus filed 85 days after his exclusion from two race tracks. In May 1984, Hollywood Park removed the petitioner from its premises for unauthorized presence in the winner's circle and for associating with bookmakers in the clubhouse area. Jones appealed to CHRB for a hearing on his expulsion

and while that hearing was pending, he attended another race track owned by Hollywood Park. He was again removed, this time for improperly entering the parking and clubhouse areas. CHRB then issued a decision upholding the exclusions. Eighty-five days after the decision, Jones petitioned the superior court for a writ of mandate. The lower court granted the writ, but the appellate court reversed, stating that the relevant statute had been amended to include a thirty-day statute of limitations applicable to "any...final administrative decision of the board," and therefore the lower court erred in granting the writ.

RECENT MEETINGS:

At the October 24 meeting Assemblymember Jim Costa presented Assembly Concurrent Resolution 159 to CHRB. The resolution provides that one race per day at each association facility be limited to California-bred horses. Assemblymember Costa stated that in his opinion this was not occurring, and he urged the Board to act to ensure compliance with this requirement. Commissioner Seeley stated that he was in full agreement, and Chairperson Felton promised to personally see that it was enforced.

Commissioner Paul Deats was unanimously elected Chairperson for the year 1987 after being nominated by Commissioner Landsdale. Commissioner Leslie Liscom was unanimously elected Vice-Chairperson for 1987 after being nominated by Commissioner Seeley.

FUTURE MEETINGS:

February 20 in Arcadia.
March 20 in Albany.
April 24 in Los Angeles.
May 22 in Los Angeles.

NEW MOTOR VEHICLE BOARD

Executive Officer: Sam W. Jennings
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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 manu-