

CALIFORNIA HORSE RACING BOARD
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LEGISLATIVE, LEGAL AND REGULATIONS COMMITTEE MEETING

of the California Horse Racing Board will be held on Wednesday, June 19, 2013, commencing at **3:30 p.m., or as soon thereafter the conclusion of the Pari-mutuel/ADW and Simulcast Committee meeting** in the Sunset Room at the Betfair Hollywood Park Race Track, 1050 South Prairie Ave., Inglewood, California. Non-committee Board members attending the committee meeting may not participate in the public discussion, official committee vote, or committee closed session.

AGENDA

Agenda Items

1. Report and discussion regarding **horse racing legislation.**
2. Discussion and action regarding **approval of the revised CHRB Governing Procedures notice for disciplinary hearing.**
3. **General Business:** Communications, reports, requests for future actions of the Committee.

Additional information regarding this meeting may be obtained from Jacqueline Wagner at the CHRB Administrative Office, 1010 Hurley Way, Suite 300, Sacramento, CA 95825; telephone (916) 263-6000; fax (916) 263-6042. A copy of this notice can be located on the CHRB website at www.chrb.ca.gov. *Information for requesting disability related accommodation for persons with a disability who require aids or services in order to participate in this public meeting, should contact Jacqueline Wagner.

LEGISLATIVE, LEGAL AND REGULATIONS COMMITTEE

Commissioner Jesse H. Choper, Chairman
Commissioner Richard Rosenberg, Member
Kirk E. Breed, Executive Director

STAFF ANALYSIS
REPORT AND DISCUSSION REGARDING
HORSE RACING LEGISLATION

Legislative, Legal and Regulations Committee
June 20, 2013

HORSE RACING RELATED LEGISLATION
ASSEMBLY BILLS

AB 432 (V. Manuel Pérez D) Horse racing: exchange wagering.

Current Text: Introduced: 2/15/2013

Introduced: 2/15/2013

Status: 6/11/2013-From committee: Do pass and re-refer to Com. on APPR. (Ayes 11. Noes 0.) (June 11). Re-referred to Com. on APPR.

Is Urgency: N

Location: 6/11/2013-S. APPR.

Summary:

This bill would require any racing association or racing fair receiving distributions from any exchange wagering provider's exchange revenues to distribute a specified portion of that revenue to the official registering agency.

AB 1074 (Atkins D) Horse racing: statewide marketing organization.

Current Text: Amended: 5/24/2013

Introduced: 2/22/2013

Status: 5/29/2013-In Senate. Read first time. To Com. on RLS. for assignment.

Is Urgency: N

Location: 5/29/2013-S. RLS.

Summary:

This bill would extend the January 1, 2014, sunset date of the state wide marketing organization (California Marketing Committee (CMC) administered by thoroughbred racing associations, fairs, and the organization responsible for contracting with thoroughbred racing associations and fairs with respect to the conduct of racing meetings, January 1, 2019.

AB 1154 (Gray D) Horse racing: equine drug testing: equine medical director.**Current Text: Amended: 5/1/2013****Introduced: 2/22/2013****Status: 5/24/2013-Failed Deadline pursuant to Rule 61(a)(5). (Last location was appr. Suspense file on 5/8/2013)****Is Urgency: N****Location: 5/24/2013-A. 2 YEAR.****Summary:**

Current law requires the California Horse Racing Board to contract to provide compensation for an equine medical director, with specified duties and responsibilities, who shall advise the Kenneth L. Maddy Equine Analytical Chemistry Laboratory, located at the University of California at Davis, and be appointed by the Dean of the School of Veterinary Medicine, as specified.

This bill would establish that the term for the equine medical director is 4 years, and would prohibit a person from serving 2 consecutive terms. AB 1154 is a dead bill for this legislative session.

AB 1226 (Hall D) Horse racing: jockey riding fees.**Current Text: Amended: 4/8/2013****Introduced: 2/22/2013****Status: 5/23/2013-Referred to Com. on G.O.****Is Urgency: N****Location: 5/23/2013-S. G.O..****Calendar: 6/25/2013 9:30 am John L. Burton Hearing Room (4203) Senate Governmental Organization, Wright, Chair****Summary:**

This bill adds language to Business and Professions Code to pay jockey and a percentage from the gross purse for 1st, 2nd and 3rd place. Specifically, this bill provides that:

- 1) In a race with a gross purse of more than nine thousand nine hundred ninety-nine dollars (\$9,999), all of the following shall apply:
 - a) A jockey whose horse finishes first in a race shall be paid at least 10 percent of the first place winner's share of the gross purse.
 - b) A jockey whose horse finishes second in a race shall be paid at least 5 percent of the second place winner's share of the gross purse.
 - c) A jockey whose horse finishes third in a race shall be paid at least 5 percent of the third place winner's share of the gross purse.
- 2) Defines "gross purse" as the published amount of the purse before any deductions.

AB 1303 (Hall D) Horse racing: takeouts: disclosure to patrons.**Current Text:** Introduced: 2/22/2013**Introduced:** 2/22/2013**Status:** 6/11/2013-From committee: Do pass and re-refer to Com. on APPR. with recommendation: to consent calendar. (Ayes 11. Noes 0.) (June 11). Re-referred to Com. on APPR.**Is Urgency:** N**Location:** 6/11/2013-S. APPR.**Summary:**

This bill would require each racing association or fair to inform patrons, through the official program, of the takeout being applied to the handle for the racing meeting.

AB 1347 (Gray D) Horse racing: out-of-state thoroughbred races: statewide marketing organization.**Current Text:** Amended: 5/24/2013**Introduced:** 2/22/2013**Status:** In Senate. Read first time. To Com. on RLS. for assignment.**Is Urgency:** N**Location:** : 6/3/2013-S. RLS.**Summary:**

Current law, the total number of thoroughbred races imported by associations or fairs on a statewide basis under these provisions shall not exceed 50 per day on days when live thoroughbred or fair racing is being conducted in the state, with the exception of prescribed races, including races that are part of the race card of the Kentucky Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont Stakes, the Jockey Club Gold Cup, the Travers Stakes, the Arlington Million, the Breeders' Cup, the Dubai Cup, the Arkansas Derby, or the Haskell Invitational. This bill would exempt from the 50 race per day limitation, races that are part of the race card. This bill contains other related provisions and other existing laws.

This bill adds the Wood Memorial to the group of stake races in Horse Racing Law which are exempt from the 50-race per Day limit on imported races, as defined. The exempted thoroughbred stakes races include: races that are part of the race card of the Kentucky Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont Stakes, the Jockey Club Gold Cup, the Travers Stakes, the Arlington Million, the Breeders' Cup, the Dubai Cup, the Arkansas Derby, or the Haskell Invitational.

SENATE BILLS

SB 398 (Galgiani D) Horse racing: charity days: distribution of proceeds.

Current Text: Amended: 4/1/2013

Introduced: 2/20/2013

Status: 6/12/2013-From committee: Do pass and re-refer to Com. on APPR. with recommendation: To consent calendar. (Ayes 16. Noes 0.) (June 12). Re-referred to Com. on APPR.

Is Urgency: N

Location: 6/12/2013-A. APPR.

Summary:

Current law requires each licensed racing association to make to specified distributions to nonprofit charities of its choosing, and requires that at least 20% of the distributions go to charities associated with the horse racing industry.

This bill would, in addition to those required distributions, authorize charity race day distributions to be made to a non-profit corporation or trust that has as its only purpose the support of the California fairs network.

SB 721 (Padilla D) Horse racing: license fee retention.

Current Text: Introduced: 2/22/2013

Introduced: 2/22/2013

Status: 5/16/2013-Referred to Com. on G.O..

Is Urgency: N

Location: 5/16/2013-A. G.O

Summary:

This bill repeals obsolete references in the Horse Racing Law relating to horse racing licensing fees. SB 721 makes minor code maintenance changes to horse racing law by repealing obsolete references to license fees for racing meetings at fairs.

SB 741 (Cannella R) California fairs: funding.

Current Text: Amended: 5/28/2013

Introduced: 2/22/2013

Status: Is Urgency: Y

Location: 5/30/2013-In Assembly. Read first time. Held at Desk.

Summary:

Would require certain revenues paid by racing associations and fairs generated by parimutuel wagering and certain revenues from live races paid by fair racing associations as license fees to be deposited into the Fair and Exposition Fund and would require those funds to be continuously appropriated for various purposes, including, among others, capital improvements at fairgrounds. The bill would also require all funds appropriated for California fairs and expositions to be deposited into the Fair and Exposition Fund and would continuously appropriate those funds for various purposes. By continuously appropriating the funds in the Fair and Exposition Fund, the bill would make an appropriation.

SB 741 is an urgency measure that makes numerous substantive and clarifying changes to existing provisions of law governing the operation, oversight and funding of the network of California fairs. Specifically, this measure:

- 1) Adds findings and declarations to the Food and Agriculture Code stating that funding for the network of California fairs is a cooperative venture and is anticipated to be generated from multiple sources, public and private. Also, declares that fairs shall work collectively to identify and designate new funding sources for fairs to be utilized for the benefit of all fairs in the network.
- 2) Clarifies that revenues generated by racing associations and fairs shall be deposited into the Fairs and Exposition (F&E) Fund and may be expended for various purposes that enhance the fairs, including among other things, for capital improvements at fairgrounds, with priority given to renewable energy generation projects, and for expenses incurred in establishing and operating horse racing facilities and training. Also, deletes existing provisions requiring satellite wagering license fees be deposited into a separate account in the F&E Fund.
- 3) Provides that excess funds generated in the F&E Fund may be used for:
 - (a) capital outlay to California fairs for fair projects involving public health and safety;
 - (b) fair projects involving major and deferred maintenance;
 - (c) fair projects necessary due to any emergency;
 - (d) projects that are required by physical changes to the fair site;
 - (e) projects that are required to protect the fair property or installation, such as fencing and flood protection; and,
 - (f) the acquisition or improvement of any property or facility that will serve to enhance the operation of the fair.
- 4) Stipulates that not more than 10% of the remaining unallocated balance in the F&E Fund may be used during any year by the Division of Fairs and Expositions for oversight and administration purposes involving the network of California fairs.
- 5) Requires the Secretary of Food and Agriculture (secretary) to annually project available monies in the F&E Fund and advise the Joint Committee on Fairs, Allocation, and Classification of the administrative budget of the Division of Fairs and Expositions and the additional staff and resources necessary to oversee the network of California fairs. Also, requires the secretary to prepare an annual expenditure plan for the F&E Fund for review and approval by the Joint Committee.
- 6) Repeals an existing requirement that all state designated fairs have their books and accounts audited annually and instead requires that all fairs that receive money from the F&E Fund have their accounts examined and reviewed annually and audited every three years by an independent auditor rather than the California Department of Food and Agriculture (CDFA).

7) Requires fair boards with annual budgets exceeding \$5 million to conduct an annual audit by an independent certified public accountant selected by the board. Fair boards with annual budgets of less than \$5 million must have their accounts reviewed annually and audited every three years by an independent certified public accountant selected by the board. Also, permits CDFA to require an audit sooner than referenced above if it deems it necessary to protect the interests of any fair.

8) Repeals an existing requirement that fair boards must receive approval of the CDFA before they can file a lawsuit, or settle a lawsuit for more than \$10,000. Also eliminates the requirement that the Department of General Services (DGS) must approve any activity on the property owned by the fair board, but retains the requirement that "hazardous activities" may be conducted only upon the determination by CDFA that adequate insurance coverage is provided.

9) Grants the Governor the authority to remove a fair board member for cause upon the recommendation of a fair board. Also, requires the fair boards to adopt a policy and procedure, including the vote threshold necessary, for removal of a board member.

10) Eliminates the requirement that the CDFA and the DGS must approve all contracts, purchases or leases of land or other property by the fair boards.

11) Repeals the requirement that fair boards provide CDFA written notification prior to entering into any agreement that: (a) exceeds \$100,000, (b) exists for a period greater than 2 years, or (c) builds permanent structures on the property.

12) Requires fair boards to incorporate competitive bidding procedures into all contracts and subcontracts over \$100,000.

13) Provides that, if the estimated costs of any construction project or similar work exceed \$25,000, the fair board shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids. Also, makes it explicit that district agriculture associations (DAAs) shall be subject to all applicable provisions of the Public Contract Code.

14) Adds provisions to the Food and Agriculture Code authorizing fair boards to do any of the following:

- a) Accept funds or gifts from the federal government or any person for fair purposes.
- b) Contract for programs and contract for the purchase or lease of goods.
- c) Establish and maintain financial accounts.
- d) Approve annual budgets, operate a payroll system, establish a program for paying vendors and contract with other fairs for the purpose of holding joint fairs.
- e) Make permanent improvements to the DAA's real property.
- f) Purchase, acquire, hold, sell or exchange, or convey any interest in real property for a period in excess of 20 years, with the approval of DGS.
- g) Lease, let, or grant leases for the use of real property, as approved by the board. For leases greater than 20 years, DGS approval is required.

h) Pledge any revenue, monies or other rights to payment that shall constitute a lien or security interest that immediately attaches to the property pledged, with the approval of DGS.

15) Makes other technical, clarifying and conforming changes, as specified.

SB 819 (Senate Committee on Governmental Organization) Horse racing:
Breeders' Cup Championship series: payment of purses.

Current Text: Introduced: 3/14/2013

Introduced: 3/14/2013

Status: : 6/13/2013-Action From Second Reading: Read second time.To Consent Calendar.

Is Urgency: N

Location: A. Consent Calendar

Calendar: 6/13/2013 #10 Assembly Senate Second Reading File

Summary:

In years that the Breeders' Cup Championship series is conducted at a race meeting in California, current law requires that specified amounts that would have otherwise been distributed to a purse account be made available to promote and sponsor the Breeders' Cup.

This bill would instead specify that those amounts shall be made available to the Breeders' Cup Championship series for the purpose of promoting and supporting the Breeders' Cup, including the payment of purses in Breeders' Cup Championship races.

ASSEMBLY BILL**No. 432****Introduced by Assembly Member V. Manuel Pérez**

February 15, 2013

An act to add Section 19604.6 to the Business and Professions Code, relating to horse racing.

LEGISLATIVE COUNSEL'S DIGEST

AB 432, as introduced, V. Manuel Pérez. Horse racing: exchange wagering.

(1) Existing law authorizes exchange wagering and authorizes the California Horse Racing Board to recover any costs associated with the licensing or regulation of exchange wagering by imposing an assessment on the exchange wagering licensee in an amount that does not exceed the reasonable costs associated with the licensing or regulation of exchange wagering.

This bill would require any racing association or racing fair receiving distributions from any exchange provider's exchange revenues to distribute a portion of that revenue to the official registering agency in a specified manner. By imposing new requirements on any racing association or racing fair, the violation of which would be a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19604.6 is added to the Business and
2 Professions Code, to read:
3 19604.6. Any racing association or racing fair receiving
4 distributions from any exchange provider's exchange revenues,
5 as may be required pursuant to paragraphs (2) to (5), inclusive, of
6 subdivision (b) of Section 19604.5, shall distribute a portion of
7 said revenue to the official registering agency in the manner
8 prescribed in Section 19617.2.
9 SEC. 2. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.

AMENDED IN ASSEMBLY MAY 24, 2013

CALIFORNIA LEGISLATURE—2013-14 REGULAR SESSION

ASSEMBLY BILL

No. 1074

Introduced by Assembly Member Atkins

February 22, 2013

An act to amend Section 19605.73 of the Business and Professions Code, relating to horse racing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1074, as amended, Atkins. Horse racing: statewide marketing organization.

Existing law, operative until January 1, 2014, authorizes thoroughbred racing associations, fairs, and the organization responsible for contracting with thoroughbred racing associations and fairs with respect to the conduct of racing meetings, to form a private, statewide marketing organization to market and promote thoroughbred and fair horse racing. If a marketing organization is formed, existing law requires an amount not to exceed 0.25% of the total amount handled by each satellite wagering facility to be distributed to the marketing organization, and imposes certain requirements on the marketing organization, including that the marketing organization annually submit certain information to the California Horse Racing Board. Violations of the Horse Racing Law are generally misdemeanors.

This bill would delete the repeal date, thereby extending the operation of those provisions indefinitely. By making these *extend the operation of those provisions to January 1, 2019*. By extending those provisions of the Horse Racing Law permanent, a violation of which is a crime, the bill would create new crimes and would thereby impose a state-mandated local program.

AB 1074

— 2 —

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19605.73 of the Business and Professions
2 Code is amended to read:
3 19605.73. (a) Thoroughbred racing associations, fairs, and the
4 organization responsible for contracting with thoroughbred racing
5 associations and fairs with respect to the conduct of racing
6 meetings, may form a private, statewide marketing organization
7 to market and promote thoroughbred and fair horse racing,
8 including, but not limited to, the establishment and maintenance
9 of an Internet Web site featuring California thoroughbred and fair
10 racing, the establishment and administration of players incentive
11 programs for those who wager on thoroughbred association and
12 fair races, and promotional activities at satellite wagering facilities
13 to increase their attendance and handle. While the promotional
14 activities at satellite wagering facilities shall be funded by the
15 marketing organization, they shall be implemented and coordinated
16 by representatives of the satellite wagering facilities and the
17 thoroughbred racing associations or fairs then conducting a live
18 race meet. The organization shall consist of the following members:
19 two members, one from the northern zone and one from the
20 combined central and southern zones, appointed by the
21 thoroughbred racetracks; two members, one from the northern
22 zone and one from the combined central and southern zones,
23 appointed by the owners' organization responsible for contracting
24 with associations and fairs with respect to the conduct of racing
25 meetings; and two members, one from the northern zone and one
26 from the combined central and southern zones, appointed by the
27 organization representing racing and satellite fairs.
28 (b) The marketing organization formed pursuant to subdivision
29 (a) shall, by November 1 of each year, submit a written report to
30 the board on a statewide marketing and promotion plan for the

1 upcoming calendar year. In addition, the organization shall annually
2 present to the board at the board's November meeting a verbal
3 report on the statewide marketing and promotion plan for the
4 upcoming calendar year. The plan shall be implemented as
5 determined by the organization. The organization shall receive
6 input from all interested industry participants and may utilize
7 outside consultants.

8 (c) In addition to the distributions specified in subdivisions (a)
9 and (b) of Section 19605.7, subdivisions (a) and (b) of Section
10 19605.71, and Section 19605.72, for thoroughbred and fair
11 meetings only, from the amount that would normally be available
12 for commissions and purses, an amount not to exceed 0.25 percent
13 of the total amount handled by each satellite wagering facility shall
14 be distributed to the marketing organization formed pursuant to
15 subdivision (a) for the purposes set forth therein. The amounts
16 initially distributed to the marketing organization formed pursuant
17 to subdivision (a) shall be 0.2 percent of the total amount handled
18 by satellite wagering facilities for thoroughbred and fair meetings
19 only. The amount distributable to the marketing organization may
20 be adjusted by the board, in its discretion. However, the adjusted
21 amounts may not exceed an aggregate of 0.25 percent of the total
22 amount handled by satellite wagering facilities for thoroughbred
23 and fair meetings only. Any of the promotion funds that are not
24 expended in the year in which they are collected may be expended
25 in the following year. If promotion funds expended in any one
26 year exceed the amount collected for that year, the funds expended
27 in the following year shall be reduced by the excess amount. The
28 marketing organization, on a quarterly basis, shall submit to the
29 board a written report that accounts for all receipts and expenditures
30 of the promotion funds for the previous three months.

31 (d) *This section shall remain in effect only until January 1, 2019,*
32 *and as of that date is repealed, unless a later enacted statute, that*
33 *is enacted before January 1, 2019, deletes or extends that date.*
34 *Any moneys held by the organization shall, in the event this section*
35 *is repealed, be distributed to the organization formed pursuant to*
36 *Section 19608.2, for purposes of that section.*

37 SEC. 2. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

AB 1074

— 4 —

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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AMENDED IN ASSEMBLY MAY 1, 2013

AMENDED IN ASSEMBLY APRIL 18, 2013

CALIFORNIA LEGISLATURE—2013-14 REGULAR SESSION

ASSEMBLY BILL

No. 1154

Introduced by Assembly Member Gray

February 22, 2013

An act to amend Section 19578 of the Business and Professions Code, relating to horse racing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1154, as amended, Gray. Horse racing: equine drug testing: equine medical director.

Existing law provides that it is the intent of the Legislature that the California Horse Racing Board contract with the Regents of the University of California to provide equine drug testing. Existing law also requires the board to contract to provide compensation for an equine medical director, with specified duties and responsibilities, who shall *provides for the appointment of an equine medical director to advise the Kenneth L. Maddy Equine Analytical Chemistry Laboratory, located at the University of California at Davis, and be appointed by the Dean of the School of Veterinary Medicine, as specified.*

This bill would establish that the term for the equine medical director is 2 years, and, *for a person who is appointed as equine medical director on or after January 1, 2014, would prohibit a person from serving limit the number of terms that a person may serve consecutively to 2 consecutive terms.* The bill would state various legislative findings and declarations relating to the Kenneth L. Maddy Equine Analytical Chemistry Laboratory.

AB 1154

- 2 -

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The Kenneth L. Maddy Equine Analytical Chemistry
4 Laboratory located at the University of California at Davis has
5 proven to be an asset to California's horse racing industry.

6 (b) It is in the interest of the people of California that the
7 Kenneth L. Maddy Equine Analytical Chemistry Laboratory
8 continues to provide equine drug testing.

9 (c) In order to ensure that the Kenneth L. Maddy Equine
10 Analytical Chemistry Laboratory remains a leader in equine drug
11 testing, a knowledge and talent base to lead the laboratory must
12 be broad.

13 (d) Having multiple individuals capable of being the equine
14 medical director at the Kenneth L. Maddy Equine Analytical
15 Chemistry Laboratory strengthens and ensures the continued
16 success of the laboratory.

17 SEC. 2. Section 19578 of the Business and Professions Code
18 is amended to read:

19 19578. (a) It is the intent of the Legislature that the board
20 contract with the Regents of the University of California to provide
21 equine drug testing. It is further the intent of the Legislature that
22 to the extent that resources are available, the California Animal
23 Health and Food Safety Laboratory perform studies that may lead
24 to the development of alternative or improved drug testing
25 techniques.

26 (b) The Kenneth L. Maddy Equine Analytical Chemistry
27 Laboratory shall be located at the University of California at Davis
28 in order to take advantage of the expertise of the veterinary
29 specialists at that campus' School of Veterinary Medicine. The
30 laboratory shall be a part of the California Animal Health and Food
31 Safety Laboratory. Any capital outlay expenditures for the Kenneth
32 L. Maddy Equine Analytical Chemistry Laboratory shall comply
33 with Section 13332.11 of the Government Code.

34 (c) Funds collected under Article 9.2 (commencing with Section
35 19605) and Article 9.5 (commencing with Section 19610) for

1 purposes of the California Animal Health and Food Safety
2 Laboratory and the Center for Equine Health shall be deposited in
3 the California Animal Health and Food Safety Laboratory and
4 Center for Equine Health Account in the Fair and Exposition Fund.
5 Funds deposited in that account constitute trust funds and shall be
6 held in trust and may be expended only for the purposes for which
7 those funds are authorized to be expended pursuant to this section.
8 The funds designated for the California Animal Health and Food
9 Safety Laboratory shall be distributed to that system and shall be
10 used to fund the construction costs, equipment costs, and for the
11 repayment of the principal of, interest on, and costs of issuance
12 of, and as security, including any coverage factor, pledged to the
13 payment of, bonds issued or other debt service or expense,
14 including repayment of any advances made or security required
15 by any provider of credit enhancement or liquidity for those bonds
16 or other indebtedness, or expense of maintaining that credit
17 enhancement or liquidity, incurred for the purpose of constructing
18 the Kenneth L. Maddy Equine Analytical Chemistry Laboratory,
19 and for the operating costs of the Kenneth L. Maddy Equine
20 Analytical Chemistry Laboratory. The funds designated for the
21 Center for Equine Health shall be distributed to the Center for
22 Equine Health, School of Veterinary Medicine, University of
23 California, Davis.

24 (d) Title to the Kenneth L. Maddy Equine Analytical Chemistry
25 Laboratory shall vest in the Regents of the University of California.
26 The laboratory shall be used in a manner that is consistent with
27 Section 19577 and this section.

28 (e) The board shall contract to provide compensation for an
29 equine medical director who shall advise the Kenneth L. Maddy
30 Equine Analytical Chemistry Laboratory and be appointed by the
31 Dean of the School of Veterinary Medicine under applicable
32 university hiring rules with the advice of the board. The equine
33 medical director shall be a member of the scientific advisory
34 committee to the Kenneth L. Maddy Equine Analytical Chemistry
35 Laboratory, and act as the primary adviser to the board on all
36 matters relating to medication and drug testing, the practice of
37 veterinary medicine within the areas regulated by the board, and
38 the health and safety of horses within the inclosure.

39 (f) (1) The equine medical director at the Kenneth L. Maddy
40 Equine Analytical Chemistry Laboratory shall *serve be appointed*

AB 1154

— 4 —

1 for a term of two years. ~~No individual shall serve two consecutive~~
2 ~~terms as the equine medical director.~~

3 (2) *For a person who is appointed as equine medical director*
4 *on or after January 1, 2014, the number of terms that the person*
5 *may serve consecutively shall be limited to two terms. However,*
6 *this paragraph does not limit the total number of nonconsecutive*
7 *terms a person may serve.*

8 (g) The budget for equine drug testing to be performed by the
9 California Animal Health and Food Safety Laboratory pursuant
10 to Section 19577 shall be established as a permanent line item in
11 the budget of the board. Operating budget requests shall be
12 submitted annually by the university, and the board shall transfer
13 funds appropriated for the operation of the laboratory and for
14 equipment, in accordance with the contract, to the university.

15 (h) The board and the University of California may expand the
16 services provided by the laboratory to the board in a manner that
17 is mutually agreeable and is consistent with Section 19577 and
18 this section.

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AMENDED IN ASSEMBLY APRIL 8, 2013

CALIFORNIA LEGISLATURE—2013-14 REGULAR SESSION

ASSEMBLY BILL

No. 1226

Introduced by Assembly Member Hall

February 22, 2013

An act to add Section 19502 to the Business and Professions Code, relating to horse racing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1226, as amended, Hall. Horse racing: jockey riding fees.

Existing law establishes the California Horse Racing Board, which generally regulates horse racing in the state, including setting default riding fees for jockeys that apply in the absence of a contract or special agreement regarding riding fees to the contrary. Existing law establishes the default riding fees for jockeys as a certain percentage of the win purse, which is defined as the amount paid the winning horse less the fees paid by the owner to enter the horse in the race. Existing law also requires a jockey who finishes 2nd or 3rd in a race in which the purse is \$9,999 or less to be awarded a minimum amount, as specified.

This bill would instead require a jockey whose horse finishes first, 2nd, or 3rd, to be paid percentages of the gross purse, as specified, except a jockey who finishes 2nd or 3rd in a race in which the purse is \$9,999 or less. The bill would define gross purse as the published amount of the purse before any deductions. By imposing requirements on the payments made to jockeys, the violation of which would be a misdemeanor, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

AB 1226

— 2 —

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Legislature finds and declares the following:~~
2 ~~(a) California is the only state where the compensation a jockey~~
3 ~~receives for winning a race is reduced by requiring the jockey to~~
4 ~~pay a portion of the entry fee and other fees paid by an owner.~~
5 ~~(b) In order to attract and retain quality jockeys to race in~~
6 ~~California and to ensure uniformity in horse racing industry~~
7 ~~standards, it is necessary to enact legislation that would conform~~
8 ~~California's compensation standards to those in the rest of the~~
9 ~~United States.~~
10 ~~SEC. 2.~~
11 ~~SECTION 1.~~ Section 19502 is added to the Business and
12 Professions Code, to read:
13 19502. (a) Except as provided in paragraph (2) of subdivision
14 ~~(b) of Section 19501, In a race with a gross purse of more than~~
15 ~~nine thousand nine hundred ninety-nine dollars (\$9,999), all of~~
16 ~~the following shall apply:~~
17 (1) A jockey whose horse finishes first in a race shall be paid
18 at least 10 percent of the first place winner's share of the gross
19 purse.
20 (2) A jockey whose horse finishes second in a race shall be paid
21 at least 5 percent of the second place winner's share of the gross
22 purse.
23 (3) A jockey whose horse finishes third in a race shall be paid
24 at least 5 percent of the third place winner's share of the gross
25 purse.
26 (b) For purposes of this section, "gross purse" means the
27 published amount of the purse before any deductions.
28 ~~SEC. 3.~~
29 ~~SEC. 2.~~ No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

O

ASSEMBLY BILL**No. 1303**

Introduced by Assembly Member HallFebruary 22, 2013

An act to add Section 19610.7 to the Business and Professions Code, relating to horse racing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1303, as introduced, Hall. Horse racing: takeouts: disclosure to patrons.

Existing law, the Horse Racing Law, authorizes racing associations and fairs to make various deductions from the amounts handled, and specifies the manner in which the amounts deducted are required to be distributed. A violation of the Horse Racing Law, where no other penalty is expressed, is a misdemeanor.

This bill would require each racing association or fair to inform patrons, through the official program, of the takeout being applied to the handle for the racing meeting. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

AB 1303

— 2 —

The people of the State of California do enact as follows:

1 SECTION 1. Section 19610.7 is added to the Business and
2 Professions Code, to read:
3 19610.7. A racing association or fair shall inform patrons,
4 through the official program, of the takeout being applied to the
5 handle for the racing meeting.
6 SEC. 2. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

O

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013-14 REGULAR SESSION

ASSEMBLY BILL

No. 1347

Introduced by Assembly Member Gray

February 22, 2013

An act to amend ~~Sections~~ *Section* 19596.2 and 19605.73 of the Business and Professions Code, relating to horse racing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1347, as amended, Gray. Horse racing: out-of-state thoroughbred races: statewide marketing organization: *races*.

(1) Existing

Existing law authorizes a thoroughbred racing association or fair to distribute the audiovisual signal and accept wagers on the results of out-of-state thoroughbred races conducted in the United States during the calendar period the association or fair is conducting a race meeting, including days on which there is no live racing being conducted by the association or fair, without the consent of the organization that represents horsemen and horsewomen participating in the race meeting and without regard to the amount of purses. Under existing law, the total number of thoroughbred races imported by associations or fairs on a statewide basis under these provisions shall not exceed 50 per day on days when live thoroughbred or fair racing is being conducted in the state, with the exception of prescribed races, including races *imported* that are part of the race card of the Kentucky Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont Stakes, the Jockey Club Gold Cup, the

AB 1347

- 2 -

Travers Stakes, the Arlington Million, the Breeders' Cup, the Dubai Cup, the Arkansas Derby, or the Haskell Invitational.

This bill would *also* exempt from the 50 race per day limitation, races *imported* that are part of the race card *of the Wood Memorial*.

~~(2) Existing law, operative until January 1, 2014, authorizes thoroughbred racing associations, fairs, and the organization responsible for contracting with thoroughbred racing associations and fairs with respect to the conduct of racing meetings, to form a private, statewide marketing organization to market and promote thoroughbred and fair horse racing. If a marketing organization is formed, existing law requires an amount not to exceed 0.25% of the total amount handled by each satellite wagering facility to be distributed to the marketing organization, and imposes certain requirements on the marketing organization, including that the marketing organization annually submit certain information to the California Horse Racing Board.~~

~~This bill would extend the operation of those provisions to January 1, 2019. Because the bill would extend provisions of the Horse Racing Law, a violation of which is a crime, the bill would create new crimes and would thereby impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: *yes-no*. State-mandated local program: *yes-no*.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 19596.2 of the Business and Professions
 2 Code is amended to read:
 3 19596.2. (a) Notwithstanding any other law and except as
 4 provided in Section 19596.4, a thoroughbred racing association
 5 or fair may distribute the audiovisual signal and accept wagers on
 6 the results of out-of-state thoroughbred races conducted in the
 7 United States during the calendar period the association or fair is
 8 conducting a race meeting, including days on which there is no
 9 live racing being conducted by the association or fair, without the
 10 consent of the organization that represents horsemen and
 11 horsewomen participating in the race meeting and without regard

1 to the amount of purses. Further, the total number of thoroughbred
 2 races imported by associations or fairs on a statewide basis under
 3 this section shall not exceed 50 per day on days when live
 4 thoroughbred or fair racing is being conducted in the state. The
 5 limitation of 50 imported races per day does not apply to any of
 6 the following:

7 (1) Races imported for wagering purposes pursuant to
 8 subdivision (c).

9 (2) Races imported that are part of the race card of the Wood
 10 Memorial, the Kentucky Derby, the Kentucky Oaks, the Preakness
 11 Stakes, the Belmont Stakes, the Jockey Club Gold Cup, the Travers
 12 Stakes, the Arlington Million, the Breeders' Cup, the Dubai Cup,
 13 the Arkansas Derby, or the Haskell Invitational.

14 (3) Races imported into the northern zone when there is no live
 15 thoroughbred or fair racing being conducted in the northern zone.

16 (4) Races imported into the combined central and southern zones
 17 when there is no live thoroughbred or fair racing being conducted
 18 in the combined central and southern zones.

19 (b) Any thoroughbred association or fair accepting wagers
 20 pursuant to subdivision (a) shall conduct the wagering in
 21 accordance with the applicable provisions of Sections 19601,
 22 19616, 19616.1, and 19616.2.

23 (c) No thoroughbred association or fair may accept wagers
 24 pursuant to this section on out-of-state races commencing after 7
 25 p.m., Pacific standard time, without the consent of the harness or
 26 quarter horse racing association that is then conducting a live racing
 27 meeting in the Counties of Orange or Sacramento.

28 SEC. 2. ~~Section 19605.73 of the Business and Professions~~
 29 ~~Code is amended to read:~~

30 ~~19605.73. (a) Thoroughbred racing associations, fairs, and the~~
 31 ~~organization responsible for contracting with thoroughbred racing~~
 32 ~~associations and fairs with respect to the conduct of racing meetings~~
 33 ~~may form a private, statewide marketing organization to market~~
 34 ~~and promote thoroughbred and fair horse racing, including, but~~
 35 ~~not limited to, the establishment and maintenance of an Internet~~
 36 ~~Web site featuring California thoroughbred and fair racing, the~~
 37 ~~establishment and administration of players incentive programs~~
 38 ~~for those who wager on thoroughbred association and fair races;~~
 39 ~~and promotional activities at satellite wagering facilities to increase~~
 40 ~~their attendance and handle. While the promotional activities at~~

1 satellite wagering facilities shall be funded by the marketing
2 organization, they shall be implemented and coordinated by
3 representatives of the satellite wagering facilities and the
4 thoroughbred racing associations or fairs then conducting a live
5 race meet. The marketing organization shall consist of the
6 following members: two members, one from the northern zone
7 and one from the combined central and southern zones, appointed
8 by the thoroughbred racetracks; two members, one from the
9 northern zone and one from the combined central and southern
10 zones, appointed by the owners' organization responsible for
11 contracting with associations and fairs with respect to the conduct
12 of racing meetings; and two members, one from the northern zone
13 and one from the combined central and southern zones, appointed
14 by the organization representing racing and satellite fairs.

15 (b) The marketing organization formed pursuant to subdivision
16 (a) shall, by November 1 of each year, submit a written report to
17 the board on a statewide marketing and promotion plan for the
18 upcoming calendar year. In addition, the marketing organization
19 shall annually present to the board at the board's November
20 meeting a verbal report on the statewide marketing and promotion
21 plan for the upcoming calendar year. The plan shall be
22 implemented as determined by the marketing organization. The
23 marketing organization shall receive input from all interested
24 industry participants and may utilize outside consultants.

25 (c) In addition to the distributions specified in subdivisions (a)
26 and (b) of Section 19605.7, subdivisions (a) and (b) of Section
27 19605.71, and Section 19605.72, for thoroughbred and fair
28 meetings only, from the amount that would normally be available
29 for commissions and purses, an amount not to exceed 0.25 percent
30 of the total amount handled by each satellite wagering facility shall
31 be distributed to the marketing organization formed pursuant to
32 subdivision (a) for the purposes set forth therein. The amounts
33 initially distributed to the marketing organization formed pursuant
34 to subdivision (a) shall be 0.2 percent of the total amount handled
35 by satellite wagering facilities for thoroughbred and fair meetings
36 only. The amount distributable to the marketing organization may
37 be adjusted by the board, in its discretion. However, the adjusted
38 amounts shall not exceed an aggregate of 0.25 percent of the total
39 amount handled by satellite wagering facilities for thoroughbred
40 and fair meetings only. Any of the promotion funds that are not

1 expended in the year in which they are collected may be expended
2 in the following year. If promotion funds expended in any one
3 year exceed the amount collected for that year, the funds expended
4 in the following year shall be reduced by the excess amount. The
5 marketing organization, on a quarterly basis, shall submit to the
6 board a written report that accounts for all receipts and expenditures
7 of the promotion funds for the previous three months.

8 (d) This section shall remain in effect only until January 1, 2019,
9 and, as of that date, is repealed, unless a later enacted statute that
10 is enacted before January 1, 2019, deletes or extends that date.
11 Any moneys held by the marketing organization shall, in the event
12 this section is repealed, be distributed to the organization formed
13 pursuant to Section 19608.2, for purposes of that section.

14 SEC. 3. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 398

Introduced by Senator Galgiani

February 20, 2013

An act to amend Section 19556 of the Business and Professions Code, relating to horse racing.

LEGISLATIVE COUNSEL'S DIGEST

SB 398, as amended, Galgiani. Horse racing: charity days: *distribution of proceeds.*

Existing law requires each licensed racing association to designate a certain number of racing days to be conducted as charity days, and requires the net proceeds from those charity days to be distributed to beneficiaries who meet certain qualifications. Existing law also requires distributions to be made to certain nonprofit corporations and organizations, and requires that at least 20% of the distributions go to charities associated with the horse racing industry.

This bill, in addition to those required distributions, would authorize a separate distribution to be made to a nonprofit corporation or trust that has as its sole purpose the support of recognized fairs or the network of California fairs.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19556 of the Business and Professions
- 2 Code is amended to read:

SB 398

- 2 -

1 19556. (a) The distribution shall be made by the distributing
2 agent to beneficiaries qualified under this article. For purposes of
3 this article, a beneficiary shall be all of the following:

4 (1) A nonprofit corporation or organization entitled by law to
5 receive a distribution made by a distributing agent.

6 (2) Exempt or entitled to an exemption from taxes measured by
7 income imposed by this state and the United States.

8 (3) Engaged in charitable, benevolent, civic, religious,
9 educational, or veterans' work similar to that of agencies
10 recognized by an organized community chest in the State of
11 California, except that the funds so distributed may be used by the
12 beneficiary for capital expenditures.

13 (4) Approved by the board.

14 (b) At least 20 percent of the distribution shall be made to
15 charities associated with the horse racing industry. In addition to
16 this 20 percent of the distribution, another 5 percent of the
17 distribution shall be paid to a welfare fund described in subdivision
18 (b) of Section 19641 and another 5 percent of the distribution shall
19 be paid to a nonprofit corporation, the primary purpose of which
20 is to assist horsemen, *horsewomen*, and backstretch personnel who
21 are being affected adversely as a result of alcohol or substance
22 abuse. No beneficiary otherwise qualified under this section to
23 receive charity day net proceeds shall be excluded on the basis
24 that the beneficiary provides charitable benefits to persons
25 connected with the care, training, and running of racehorses, except
26 that type of beneficiary shall make an accounting to the board
27 within one calendar year of the date of receipt of any distribution.

28 (c) (1) In addition to the distribution pursuant to subdivision
29 (b), a separate 20 percent of the distribution shall be made to a
30 nonprofit corporation or trust, the directors or trustees of which
31 shall serve without compensation except for reimbursement for
32 reasonable expenses, and which has as its sole purpose the
33 accumulation of endowment funds, the income on which shall be
34 distributed to qualified disabled jockeys.

35 (2) To receive a distribution under this subdivision, a corporation
36 or trust must establish objective qualifications for disabled jockeys,
37 and provide an annual accounting and report to the board on its
38 activities indicating compliance with the requirements of this
39 subdivision.

1 (3) The nonprofit corporation or trust shall, in an amount
2 proportional to the contributions received pursuant to this
3 subdivision as a percentage of the total contributions received by
4 the corporation or trust, give preference in assisting qualified
5 disabled jockeys to the following:

6 (A) Jockeys who were disabled while participating in the racing
7 or training of horses at licensed racing associations or approved
8 training facilities in California.

9 (B) Jockeys licensed by the board who were disabled while
10 participating in the racing or training of horses in a state other than
11 California.

12 (d) When the nonprofit corporation or trust described in
13 subdivision (c) has received distributions in an amount equal to
14 two million dollars (\$2,000,000), the distribution mandated by
15 subdivision (c) shall cease.

16 (e) In addition to the distributions pursuant to subdivisions (b)
17 and (c), a separate distribution may be made to a nonprofit
18 corporation or trust that has as its sole purpose the support of
19 recognized fairs or the network of California fairs.

SENATE BILL**No. 721****Introduced by Senator Padilla**

February 22, 2013

An act to amend Section 19549.12 of, and to repeal Section 19614.5 of, the Business and Professions Code, relating to horse racing.

LEGISLATIVE COUNSEL'S DIGEST

SB 721, as introduced, Padilla. Horse racing: license fee retention.

(1) Existing law, the Horse Racing Law, generally regulates horse racing and vests the administration and enforcement of the Horse Racing Law in the California Horse Racing Board. A violation of the act, where no other penalty is expressed, is a misdemeanor. Existing law authorizes any county or district agricultural association fair conducting racing meetings for the first time on or after January 1, 1979, to retain the applicable state license fee for payment of a capital expense loan incurred for the purpose of preparing its facilities for horse racing.

This bill would repeal that authorization. Because this bill would expand the scope of a crime by removing an exception, it would create a state-mandated local program.

The bill would also make conforming changes.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19549.12 of the Business and Professions
2 Code is amended to read:

3 19549.12. Notwithstanding Sections 19482 and 19549, any
4 weeks of harness racing or quarter horse racing allocated by the
5 board to be raced at the facilities of a county fair ~~which that~~
6 conducts its racing meeting pursuant to Section 19549.3 may be
7 conducted by the fair. ~~License fees for racing at the facilities of~~
8 ~~the county fair other than for the racing days allocated pursuant~~
9 ~~to Section 19549.3 are exempt from Section 19614.5.~~

10 SEC. 2. Section 19614.5 of the Business and Professions Code
11 is repealed.

12 ~~19614.5. Notwithstanding Section 19614, any county or district~~
13 ~~agricultural association fair which is licensed to conduct racing~~
14 ~~meetings for the first time on or after January 1, 1979, may retain~~
15 ~~the license fee applicable to its meeting for payment of a capital~~
16 ~~expense loan incurred for the purpose of preparing its facilities for~~
17 ~~horseracing. This license fee retention shall be applicable only~~
18 ~~during the loan period and only so long as all the moneys retained~~
19 ~~are used to pay off the loan for the capital expenses.~~

20 SEC. 3. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE APRIL 10, 2013

SENATE BILL

No. 741

Introduced by Senator Cannella

(Coauthors: Senators Berryhill, Fuller, Gaines, *Galgiani*, and Nielsen)

(Coauthors: Assembly Members Achadjian, Alejo, Bigelow, Dahle, Gray, Olsen, Perea, V. Manuel Pérez, Salas, and Williams)

February 22, 2013

An act to amend Sections 19606.1, 19614, 19620, and 19620.2 of, and to repeal Sections 19608.3 and 19620.1 of, the Business and Professions Code, to amend Sections 3954, 3965, 3965.1, and 3967 of, to repeal Sections 4051.1, 4051.2, 4057, and 4401.5 of, and to repeal and add Sections 3200, 4051, and 4053 of, the Food and Agricultural Code, and to amend Section 11011.2 of the Government Code, relating to fairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 741, as amended, Cannella. California fairs: funding.

(1) Existing law regulates horse racing in this state and provides, among other things, for the payment and distribution of license fees in connection with horse racing meetings. Existing law establishes the Fair and Exposition Fund to, among other things, allocate moneys for the support of the network of California fairs. Existing law requires certain license fees from satellite wagering to be deposited into a separate account in the Fair and Exposition Fund, and continuously

SB 741

- 2 -

appropriates those moneys for specified purposes, including, among others, the payment of expenses incurred in establishing and operating satellite wagering facilities at fairs.

This bill would delete the provisions requiring satellite wagering license fees to be deposited into a separate account in the Fair and Exposition Fund and to be continuously appropriated for specified purposes. The bill would instead require certain revenues paid by racing associations and fairs generated by parimutuel wagering and certain revenues from live races paid by fair racing associations as license fees to be deposited into the Fair and Exposition Fund and would require those funds to be continuously appropriated for various purposes, including, among others, capital improvements at fairgrounds. The bill would also require all funds appropriated for California fairs and expositions to be deposited into the Fair and Exposition Fund and would continuously appropriate those funds for various purposes. By continuously appropriating the funds in the Fair and Exposition Fund, the bill would make an appropriation.

(2) Existing law provides that the Department of Food and Agriculture is responsible for providing oversight of activities carried out by each California fair, including, but not limited to, conducting fiscal and performance audits of county fairs and citrus fruit fairs that are either requested by the fair or that the department deems necessary, and conducting, or causing to be conducted, annual fiscal audits and periodic compliance audits.

This bill would delete the requirement that the department conduct the audits described above and would instead require the department to provide that the books and accounts for the prior calendar year of all fairs receiving money from the Fair and Exposition Fund be examined and reviewed annually and audited once every 3 years by an independent certified public accountant or certified public accountancy firm. The bill would require a summary of the examination to be appended to the fair's annual statement of operation, and would provide that the costs of the annual review or audit be the responsibility of each fair.

(3) Existing law requires the Legislature, from the total revenue received from the Department of Food and Agriculture, to annually appropriate moneys to the department as it deems necessary for the oversight of the network of California fairs and to perform audits. Existing law continuously appropriates any of those funds that are unallocated to the Secretary of Food and Agriculture for specified purposes.

This bill would delete those provisions and instead would appropriate any unallocated balance in the Fair and Exposition Fund without regard to fiscal years for allocation by the secretary for capital outlay to California fairs for specified purposes. The bill would also specify that ~~no more than 10%~~ *a reasonable amount* of those funds, *as determined by the secretary*, may be used during any year by the Division of Fairs and Expositions to provide oversight and administration of the network of fairs. The bill would require the secretary to annually project the available funds from the Fair and Exposition Fund and to prepare an annual expenditure plan for review and approval by the Joint Committee on Fairs, Allocation, and Classification. The bill would require the secretary's recommendations to be deemed approved 30 days after they are received unless they are rejected by the committee.

(4) Existing law divides the state into agricultural districts and provides for the management of these districts by district agricultural associations. Existing law provides for a board of directors for each district agricultural association, and provides for the appointment of each director by the Governor.

This bill would authorize the Governor to remove a director ~~for cause, upon recommendation by the board. The bill would require the board to adopt a policy and procedure outlining the vote threshold necessary to recommend the removal of a director.~~ *cause within one year of the director's appointment.*

(5) Existing law specifies the duties and responsibilities of district agricultural associations, and requires a district agricultural association to obtain the approval of the Department of Food and Agriculture prior to exercising certain powers, including, among others, the power to sue. Existing law also requires a district agricultural association to obtain the approval of both the Department of Food and Agriculture and the Department of General Services in order to exercise certain other powers, including the power to conduct activities upon the district agricultural association's property, contract, purchase, or convey an interest in either real or personal property, or to use or manage its real estate or personal property.

This bill would revise the duties and responsibilities of the Department of Food and Agriculture and the Department of General Services with respect to district agricultural associations, and, among other things, would delete the requirement that a district agricultural association obtain the Department of Food and Agriculture's approval prior to suing. The bill would also delete the requirement that a district

SB 741

- 4 -

agricultural association obtain prior approval from both the Department of Food and Agriculture and the Department of General Services prior to conducting activities upon the district agricultural association's own property, or entering into a contract or exercising powers over its own real or personal property. The bill would require the board of directors of a district agricultural association to adopt policies and procedures for contracts, including adopting and publishing competitive bidding procedures for the award of any procurement or contract involving an expenditure of more than \$100,000, and would require a district agricultural association to contract in accordance with those procedures. The bill would also require a district agricultural association to comply with specified contracting procedures, *including, among others, soliciting bids in writing* if the estimated total cost of a project exceeds \$25,000, as specified. The bill would require a district agricultural association to adopt a fiscal review policy to conduct audits at regular intervals, as specified, and would authorize the Department of Food and Agriculture to require an audit to be conducted at an earlier time if the department deems it necessary to protect the interests of the district agricultural association. The bill would specify that the title, control, and possession of all personal property acquired, held, managed, or operated by a district agricultural association vests with the district agricultural association. The bill would delete a provision requiring the Secretary of Food and Agriculture to expend up to \$100,000 each fiscal year for an exhibit or exhibits at a fair that demonstrates the process of production and use of food and fiber, and would also delete a requirement that the secretary provide for a conference of fair judges to aid the Department of Food and Agriculture in prescribing regulations, and to expend up to \$15,000 for that purpose. The bill would make other conforming and related changes.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19606.1 of the Business and Professions
- 2 Code is amended to read:
- 3 19606.1. (a) All revenues transferred pursuant to Section
- 4 19616.52 and subdivision (d) of Section 19614 shall be deposited

1 in the Fair and Exposition Fund and, notwithstanding Section
2 13340 of the Government Code, are continuously appropriated
3 from the fund to the Department of Food and Agriculture, for
4 allocation by the Secretary of Food and Agriculture, at his or her
5 discretion, for the purposes set forth in paragraphs (1) to (6),
6 inclusive. The concurrence of the Director of Finance shall be
7 required for allocations pursuant to paragraphs (1) and (2).
8 Allocations pursuant to paragraphs (3) to (6), inclusive, shall be
9 made with the concurrence of the Joint Committee on Fairs,
10 Allocation, and Classification.

11 (1) For the repayment of the principal of, interest on, and costs
12 of issuance of, and as security, including any coverage factor,
13 pledged to the payment of, bonds issued or to be issued by a joint
14 powers agency or other debt service or expense, including
15 repayment of any advances made or security required by any
16 provider of credit enhancement or liquidity for those bonds or
17 other indebtedness or expenses of maintaining that credit
18 enhancement or liquidity, incurred for the purpose of constructing
19 or acquiring improvements at a fair's racetrack inclosure, satellite
20 wagering facilities at fairs, health and safety repair projects, or
21 handicapped access compliance projects at fairs or for the purpose
22 of refunding bonds or other indebtedness incurred for those
23 purposes. As used in this paragraph, "coverage factor" means
24 revenues in excess of the amount necessary to pay debt service on
25 the bonds or other indebtedness, up to an amount equal to 100
26 percent more than the amount of that debt service, which a joint
27 powers agency, pursuant to the resolution or indenture under which
28 the bonds or other indebtedness are or will be issued, pledges as
29 additional security for the payment of that debt service or is
30 required to have or maintain as a condition to the issuance of
31 additional bonds or other indebtedness. Notwithstanding any other
32 law, the department may also commit any funds available for
33 allocation under Article 10 (commencing with Section 19620) to
34 complete projects funded under this paragraph in the priority
35 described in this paragraph.

36 (2) For payment to the State Race Track Leasing Commission
37 to be pledged for the repayment of debt necessary to construct a
38 racetrack grandstand at the 22nd District Agricultural Association
39 fairgrounds. This payment shall be made only if the secretary
40 determines, annually, that all other pledged revenues have been

SB 741

— 6 —

1 applied to the repayment of that debt and have been determined
2 by the secretary to be inadequate for that purpose.

3 (3) For the general support of the network of California fairs
4 pursuant to the provisions of this chapter.

5 (4) For health and safety repair projects at fairs, including fire
6 and life safety improvement projects, regulatory compliance
7 projects, and long-term deferred maintenance projects.

8 (5) For capital improvements at fairgrounds. In making
9 determinations to fund capital improvements pursuant to this
10 paragraph, the secretary may grant priority status to renewable
11 energy generation projects.

12 (6) For the payment of expenses incurred in developing and
13 operating revenue generating projects at fairs, or which directly
14 benefit fairs, including the payment of expenses incurred in
15 establishing and operating horse racing facilities, industry training,
16 the establishment of pilot projects to restructure the current fair
17 system, and for projects realizing a cost savings for more efficient
18 utilization of existing fair resources.

19 (b) The secretary may not make an allocation for purposes of
20 paragraphs (2) to (6), inclusive, of subdivision (a) until the
21 payments required in any fiscal year pursuant to paragraph (1) of
22 subdivision (a) have been funded.

23 (c) Pursuant to subdivision (a), the Joint Committee on Fairs,
24 Allocation, and Classification shall review and concur, or not
25 concur, with the secretary's determination of the allocations to be
26 made pursuant to paragraphs (3) to (6), inclusive, of subdivision
27 (a) in total, and the committee may not add to, or delete projects
28 or line items from, the proposed allocations.

29 (d) The secretary's recommendations to the Joint Committee
30 on Fairs, Allocation, and Classification shall be deemed approved
31 30 days after they are received unless they are rejected by the
32 committee.

33 (e) If the Joint Committee on Fairs, Allocation, and
34 Classification does not concur with the secretary's
35 recommendations, the secretary may submit another set of
36 recommendations to the committee pursuant to this section.

37 (f) The payments required in any fiscal year for the purposes
38 of paragraphs (1) and (2) of subdivision (a) shall be made before
39 the secretary may utilize any moneys pursuant to subdivision (g).

1 (g) Except as otherwise provided in subdivision (f), when the
2 revenues deposited in the Fair and Exposition Fund exceed the
3 amount necessary to satisfy the purposes of paragraphs (1) and (2)
4 of subdivision (a), the secretary may utilize the excess amounts
5 plus the amounts deposited to the credit of the Fair and Exposition
6 Fund pursuant to revenues deposited to the credit of the fund to
7 make allocations from the fund for the purposes of Section 19620.2.

8 SEC. 2. Section 19608.3 of the Business and Professions Code
9 is repealed.

10 SEC. 3. Section 19614 of the Business and Professions Code
11 is amended to read:

12 19614. (a) Notwithstanding Sections 19611 and 19612, and
13 except for an association that qualifies pursuant to Section 19612.6,
14 for a fair conducting a live racing meeting, 1 percent of the total
15 amount handled on live races, excluding wagering at a satellite
16 facility, shall be retained by the fair association for payment to the
17 state as a license fee.

18 (b) Additionally, 0.48 percent of the total amount handled on
19 live racing, excluding wagering at a satellite facility, shall be
20 deposited with the official registering agency pursuant to
21 subdivision (a) of Section 19617.2, and shall thereafter be
22 distributed in accordance with subdivisions (b), (c), and (d) of
23 Section 19617.2.

24 (c) (1) After distribution of the applicable amounts as set forth
25 in subdivisions (a) and (b) and the payments made pursuant to
26 other relevant sections of this chapter, all funds remaining from
27 the deductions provided in Section 19610 shall be distributed 47.5
28 percent as commissions and 52.5 percent as purses. From the
29 amount distributed as thoroughbred purses, a sum equal to 0.07
30 percent of the total handle shall be held by the association to be
31 deposited with the official registering agency pursuant to
32 subdivision (a) of Section 19617.2, and shall thereafter be
33 distributed in accordance with subdivisions (b), (c), and (d) of
34 Section 19617.2.

35 (2) Any additional amount generated for purses and not
36 distributed during the previous corresponding meeting shall be
37 added to the purses at the current meeting.

38 (d) In addition to the amounts deducted pursuant to Section
39 19610, any fair racing association shall deduct 1 percent from the
40 total amount handled in its daily conventional and exotic

SB 741

- 8 -

1 parimutuel pools. The additional 1 percent shall be deposited in
2 the Fair and Exposition Fund and is hereby appropriated for the
3 purposes specified in paragraph (6) of subdivision (a) of Section
4 19606.1.

5 SEC. 4. Section 19620 of the Business and Professions Code
6 is amended to read:

7 19620. (a) The Legislature finds and declares that the
8 Department of Food and Agriculture is responsible for ensuring
9 the integrity of the Fair and Exposition Fund, administering
10 allocations from the fund to the network of California fairs, as
11 defined in Sections 19418 to 19418.3, inclusive, and providing
12 oversight of activities carried out by each California fair.

13 (b) Oversight shall include, but not be limited to, the following:

14 (1) Monitoring the solvency of the Fair and Exposition Fund.

15 (2) Distributing available state resources to the network of
16 California fairs based on criteria for state allocations approved by
17 the Secretary of Food and Agriculture. The criteria for the
18 distribution of available state resources to the network of California
19 fairs shall not include a consideration of the structure that governs
20 the fair.

21 (3) Creating a framework for administration of the network of
22 California fairs allowing for maximum autonomy and local
23 decisionmaking authority, and conducting, or causing to be
24 conducted, annual fiscal reviews.

25 (4) Requiring books and accounts for the prior calendar year of
26 all fairs receiving money from the fund to be examined and
27 reviewed annually and audited once every three years by an
28 independent certified public accountant or certified public
29 accountancy firm selected by the fair. A summary of this
30 examination, certified by the selected certified public accountant
31 or certified public accountancy firm, shall be appended to the fair's
32 annual statement of operations, along with the accountant or
33 accounting firm's recommendations, for the approval of the
34 secretary. The cost of a fair's annual review or audit shall be the
35 responsibility of each fair. With the approval of the secretary, two
36 or more fairs may conduct or contract for a joint review or audit.

37 (5) Guiding and providing incentives to fairs to seek matching
38 funds and generate new revenue from a variety of sources.

1 (6) Supporting continuous improvement of fair programming
2 to ensure that California fairs remain highly relevant community
3 institutions.

4 SEC. 5. Section 19620.1 of the Business and Professions Code
5 is repealed.

6 SEC. 6. Section 19620.2 of the Business and Professions Code
7 is amended to read:

8 19620.2. (a) Any unallocated balance in the Fair and
9 Exposition Fund is hereby appropriated without regard to fiscal
10 years for allocation by the Secretary of Food and Agriculture for
11 capital outlay to California fairs for fair projects involving public
12 health and safety, for fair projects involving major and deferred
13 maintenance, for fair projects necessary due to any emergency,
14 for projects that are required by physical changes to the fair site,
15 for projects that are required to protect the fair property or
16 installation, such as fencing and flood protection, and for the
17 acquisition or improvement of any property or facility that will
18 serve to enhance the operation of the fair.

19 (b) A portion of the funds subject to allocation pursuant to
20 subdivision (a) may be allocated to California fairs for general
21 operational support. It is the intent of the Legislature that these
22 moneys be used primarily for those fairs whose sources of revenue
23 may be limited for purposes specified in this section.

24 (c) ~~Not more than 10 percent~~ *As determined by the secretary,*
25 *a reasonable amount* of the funds specified in subdivision (a) may
26 be used during any year by the Division of Fairs and Expositions
27 to provide oversight and administration of the network of California
28 fairs pursuant to this chapter.

29 (d) The secretary shall annually project the available funds from
30 the Fair and Exposition Fund and shall advise the Joint Committee
31 on Fairs, Allocation, and Classification of the administrative budget
32 of the Division of Fairs and Expositions and the additional staff
33 and contracts necessary to develop and administer an operational
34 and policy framework to oversee the network of California fairs
35 and include that amount in the annual expenditure plan described
36 in subdivision (e).

37 (e) The secretary shall prepare an annual expenditure plan for
38 use of the moneys available from the Fair and Exposition Fund
39 for review and approval by the Joint Committee on Fairs,
40 Allocation, and Classification. The Joint Committee on ~~Fairs~~ *Fairs*,

1 Allocation, and Classification shall review and concur, or not
2 concur, with the spending plan in total, and shall not add to, or
3 delete projects or line items from, the proposed allocation.

4 (f) The secretary's recommendations to the Joint Committee on
5 Fairs, Allocation, and Classification shall be deemed approved 30
6 days after they are received unless they are rejected by the
7 committee.

8 (g) If the Joint Committee on Fairs, Allocation, and
9 Classification does not concur with the secretary's
10 recommendations, the secretary may submit another set of
11 recommendations to the committee.

12 SEC. 7. Section 3200 of the Food and Agricultural Code is
13 repealed.

14 SEC. 8. Section 3200 is added to the Food and Agricultural
15 Code, to read:

16 3200. (a) The Legislature finds and declares that funding for
17 the network of California fairs is a cooperative venture and is
18 anticipated to be generated from multiple sources, public and
19 private. Because of the benefits that accrue to the state and to its
20 residents by virtue of having the fair industry participate
21 cooperatively with the state for the purpose of effectively
22 overseeing and promoting fairs within the state, the Legislature
23 finds and declares that the fairs shall work collectively to identify
24 and designate new funding sources for fairs to be utilized for the
25 benefit of all fairs in the network.

26 (b) Notwithstanding any other law, all funds appropriated for
27 California fairs and expositions pursuant to this chapter or any
28 other law shall be deposited in the Fair and Exposition Fund and
29 are continuously appropriated as specified in Sections 19606.1
30 and 19620.2 of the Business and Professions Code.

31 (c) Notwithstanding Article 2 (commencing with Section 11270)
32 of Chapter 3 of Part 1 of Division 3 of Title 2 of the Government
33 Code relating to administrative costs, the California Exposition
34 and State Fair and the fairs specified in Sections 19418.1, 19418.2,
35 and 19418.3 of the Business and Professions Code shall only be
36 assessed and pay a share of those costs directly related to personnel
37 administration and no other administrative costs for services from
38 other state agencies except costs for services rendered pursuant to
39 specific contracts entered into with other state agencies.

1 SEC. 9. Section 3954 of the Food and Agricultural Code is
2 amended to read:

3 3954. Each association by its name has perpetual succession.
4 It may have a seal. An association may be sued and may sue, and
5 may do any and all things necessary to carry out the powers and
6 the objects and purposes for which the association is formed.

7 SEC. 10. Section 3965 of the Food and Agricultural Code is
8 amended to read:

9 3965. The board may, with the approval of the department:

10 (a) Fix the term of office, the amount of bond, salary, and
11 prescribe the duties of the secretary and of the treasurer.

12 (b) Manage the affairs of the association.

13 (c) Make all necessary bylaws, rules, and regulations for the
14 government of the association.

15 (d) Delegate, as it may deem advisable, to its officers or
16 employees any of the powers that are vested in the board under
17 subdivision (b). Any delegation of power may be revoked at any
18 time.

19 SEC. 11. Section 3965.1 of the Food and Agricultural Code is
20 amended to read:

21 3965.1. (a) Notwithstanding Section 3965 or 4051, the board
22 may arrange for and conduct, or cause to be conducted, or by
23 contract permit to be conducted, by any other individual, institution,
24 corporation, or association, upon its property at a time as it may
25 be deemed advisable, any activity.

26 (b) Notwithstanding subdivision (a), revenue generating
27 contracts involving hazardous activities shall not be approved by
28 the board unless adequate insurance coverage is provided, as
29 determined by the department in consultation with the Department
30 of General Services.

31 SEC. 12. Section 3967 of the Food and Agricultural Code is
32 amended to read:

33 3967. (a) Any director who misses three consecutive regular
34 meetings of the board without the permission of the board is
35 deemed to have resigned from the board.

36 (b) ~~(1) A director may be removed for cause by the Governor;~~
37 ~~upon recommendation by the board.~~

38 ~~(2) The board shall adopt a policy and procedure outlining the~~
39 ~~vote threshold necessary to remove a director pursuant paragraph~~
40 ~~(1).~~

1 (b) *The Governor may remove a director for cause within one*
 2 *year of the director's appointment.*

3 SEC. 13. Section 4051 of the Food and Agricultural Code is
 4 repealed.

5 SEC. 14. Section 4051 is added to the Food and Agricultural
 6 Code, to read:

7 4051. (a) Subject only to the conditions specified in this
 8 chapter, an association may do any of the following:

9 (1) Contract in accordance with all of the following:

10 (A) The association shall develop, maintain, and comply with
 11 its own written policies and procedures for contracting.

12 (B) ~~Notwithstanding any other law, in developing the policies~~
 13 ~~and procedures referenced in subparagraph (A), the board shall~~
 14 ~~incorporate the following to apply to contracts entered into or~~
 15 ~~procurement by a district agricultural association:~~

16 (i) ~~To ensure the fullest competition, the board shall adopt and~~
 17 ~~publish competitive bidding procedures for the award of any~~
 18 ~~procurement or contract involving an expenditure of more than~~
 19 ~~one hundred thousand dollars (\$100,000). The competitive bidding~~
 20 ~~procedures shall include, but not be limited to, requirements for~~
 21 ~~submission of bids and accompanying documentation, guidelines~~
 22 ~~for the use of requests for proposals, invitations to bid, or other~~
 23 ~~methods of bidding, and a bid protest procedure. The general~~
 24 ~~manager on behalf of the district agricultural association shall~~
 25 ~~determine whether the goods subject to this paragraph are available~~
 26 ~~through existing contracts or price schedules of the Department~~
 27 ~~of General Services. The Legislature finds and declares that fairs~~
 28 ~~are a valuable community resource and recognizes that local~~
 29 ~~businesses and local communities make valuable contributions to~~
 30 ~~fairs that include direct and indirect support of fair programs. The~~
 31 ~~Legislature further finds and declares that local businesses often~~
 32 ~~provide opportunity purchases to local fairs that, for similar things~~
 33 ~~available through the state purchasing program, may be purchased~~
 34 ~~locally at a price equivalent to or less than that available through~~
 35 ~~the state purchasing program. As used in this paragraph,~~
 36 ~~"opportunity purchases" means purchases made locally, either~~
 37 ~~individually or cooperatively, at a price equal to or less than the~~
 38 ~~price available through the state purchasing program on or off state~~
 39 ~~contract.~~

1 ~~(ii) The contracting standards, procedures, and rules contained~~
 2 ~~in this subdivision shall also apply to any subcontract involving~~
 3 ~~an expenditure of more than one hundred thousand dollars~~
 4 ~~(\$100,000). The board shall establish, as part of the bidding~~
 5 ~~procedures for general contracts, subcontracting guidelines that~~
 6 ~~implement this requirement.~~

7 ~~(iii) The board is subject to the Small Business Procurement~~
 8 ~~and Contract Act (Chapter 6.5 (commencing with Section 14835)~~
 9 ~~of Part 5.5 of Division 3 of Title 2 of the Government Code).~~

10 ~~(iv) Notwithstanding clauses (i) and (ii), if~~

11 ~~(A) All applicable state laws governing contracts, except as~~
 12 ~~follows:~~

13 ~~(i) A contract entered into by an association for goods is not~~
 14 ~~subject to Chapter 2 (commencing with Section 10290) of Part 2~~
 15 ~~of Division 2 of the Public Contract Code.~~

16 ~~(ii) Any contract entered into by an association is not subject~~
 17 ~~to Chapter 3 (commencing with Section 12100) of Part 2 of~~
 18 ~~Division 2 of the Public Contract Code.~~

19 ~~(B) If the estimated total cost of any construction project or~~
 20 ~~similar work carried out under this section exceeds twenty-five~~
 21 ~~thousand dollars (\$25,000), the district agricultural association~~
 22 ~~shall solicit bids in writing and shall award the work to the lowest~~
 23 ~~responsible bidder or reject all bids. The district agricultural~~
 24 ~~association is subject to all applicable provisions of the Public~~
 25 ~~Contract Code.~~

26 ~~(v)~~

27 ~~(C) A district agricultural association may elect to become~~
 28 ~~subject to the provisions of the Uniform Public Construction Cost~~
 29 ~~Accounting Act (Chapter 2 (commencing with Section 22000) of~~
 30 ~~Part 3 of Division 2 of the Public Contract Code).~~

31 ~~(2) Accept funds or gifts of value from the United States or any~~
 32 ~~person to aid in carrying out the purposes of this part.~~

33 ~~(3) Conduct or contract for programs, and contract for the~~
 34 ~~purchase or lease of goods as are necessary for effectuating the~~
 35 ~~purposes of this chapter, either independently or in cooperation~~
 36 ~~with any individual, public or private organization, or federal,~~
 37 ~~state, or local governmental agency.~~

38 ~~(4) Establish and maintain a bank checking account or other~~
 39 ~~financial institution account, approved by the Director of Finance~~
 40 ~~in accordance with Sections 16506 and 16605 of the Government~~

1 Code, for depositing funds received by the district agricultural
2 association. Notwithstanding Section 13340 of the Government
3 Code, all funds maintained in an account authorized by this
4 paragraph are continuously appropriated to the board, without
5 regard to fiscal year, to carry out this part.

6 (5) Approve the annual budget of the association and establish
7 a program for paying vendors who contract with the district
8 agricultural association.

9 (6) Contract with any county or county fair association for
10 holding a fair jointly with the county or county fair association.
11 The joint fair is a district fair of the association.

12 (7) Make or adopt all necessary orders, rules, or regulations for
13 governing the activities of the district agricultural association.
14 Notwithstanding Section 14, any orders, rules, or regulations
15 adopted by the board are exempt from Chapter 3.5 (commencing
16 with Section 11340) of Part 1 of Division 3 of Title 2 of the
17 Government Code. For informational purposes only, however, any
18 order, rule, or regulation adopted by the board may be transmitted
19 to the Office of Administrative Law for filing with the Secretary
20 of State pursuant to Section 11343 of the Government Code.

21 (8) Operate a payroll system for paying employees, and a system
22 for accounting for vacation and sick leave credits of employees.

23 (9) Delegate to the officers and employees of the district
24 agricultural association the exercise of powers vested in the board
25 as the board may deem desirable for the orderly management and
26 operation of the association.

27 ~~(10) Except as provided in paragraph (12), with~~ *With* the
28 approval of the Department of General Services, purchase, acquire,
29 hold, sell, or exchange, or convey any interest in real property for
30 a period in excess of 20 years. Any acquisition of land or other
31 real property shall be subject to the Property Acquisition Law (Part
32 11 (commencing with Section 15850) of Division 3 of Title 2 of
33 the Government Code).

34 (11) Make permanent improvements upon publicly owned real
35 property adjacent to, or near the vicinity of, the real property of
36 the district agricultural association when the improvements
37 materially benefit the property of the association.

38 ~~(12) Lease, let, or grant licenses for the use of its real property~~
39 ~~or any portion of that property, to any person or public body for~~
40 ~~whatever purpose as may be approved by the board. Any lease of~~

1 real property for a period in excess of 20 years shall be subject to
2 the approval of the Department of General Services as provided
3 in paragraph (10):

4 (13)

5 (12) Use or manage any of its property jointly or in connection
6 with any lessee or sublessee, for any purpose approved by the
7 board.

8 (14)

9 (13) With the approval of the Department of General Services,
10 pledge any and all revenues, moneys, accounts, accounts
11 receivable, contract rights, and other rights to payment of whatever
12 kind, pursuant to such terms and conditions as are approved by
13 the board. The revenues, moneys, accounts, accounts receivable,
14 contract rights, and other rights to payment of whatever kind
15 pledged by the association or its assignees constitute a lien or
16 security interest that immediately attaches to the property pledged,
17 and is effective, binding, and enforceable against the association,
18 its successors, purchasers of the property so pledged, creditors,
19 and all others asserting rights therein, to the extent set forth, and
20 in accordance with, the terms and conditions of the pledge,
21 irrespective of whether those persons have notice of the pledge
22 and without the need for any physical delivery, recordation, filing,
23 or further action.

24 (b) (1) Notwithstanding any other law, an association shall
25 adopt a fiscal review policy as follows:

26 (A) An association with an annual budget exceeding five million
27 dollars (\$5,000,000) shall conduct an annual audit by an
28 independent certified public accountant or certified public
29 accountancy firm selected by the board.

30 (B) An association with an annual budget of less than five
31 million dollars (\$5,000,000) shall have its books and accounts
32 examined and reviewed annually and audited once every three
33 years by an independent certified public accountant or certified
34 public accountancy firm selected by the board.

35 (2) Notwithstanding paragraph (1), the department may require
36 an audit to be conducted before the times specified in
37 subparagraphs (A) and (B) of paragraph (1) if the department
38 deems the audit is necessary to protect the interests of the
39 association.

1 SEC. 15. Section 4051.1 of the Food and Agricultural Code is
2 repealed.

3 SEC. 16. Section 4051.2 of the Food and Agricultural Code is
4 repealed.

5 SEC. 17. Section 4053 of the Food and Agricultural Code is
6 repealed.

7 SEC. 18. Section 4053 is added to the Food and Agricultural
8 Code, to read:

9 4053. Notwithstanding Section 14660.5 of the Government
10 Code, the title, control, and possession of all personal property
11 acquired, held, managed, or operated by a district agricultural
12 association, including property controlled or possessed by the
13 association before the enactment of this section, vests with the
14 association.

15 SEC. 19. Section 4057 of the Food and Agricultural Code is
16 repealed.

17 SEC. 20. Section 4401.5 of the Food and Agricultural Code is
18 repealed.

19 SEC. 21. Section 11011.2 of the Government Code is amended
20 to read:

21 11011.2. (a) (1) Notwithstanding any other law, including,
22 but not limited to, Sections 11011 and 14670, except as provided
23 in this section, the Department of General Services may lease real
24 property under the jurisdiction of a state agency or department, if
25 the Director of General Services determines that the real property
26 is of no immediate need to the state but may have some potential
27 future use to the program needs of the agency or department.

28 (2) The Director of General Services may not lease any of the
29 following real property pursuant to this section:

30 (A) Tax-deeded land or lands under the jurisdiction of the State
31 Lands Commission.

32 (B) Land that has escheated to the state or that has been
33 distributed to the state by court decree in estates of deceased
34 persons.

35 (C) Lands under the jurisdiction of the State Coastal
36 Conservancy or another state conservancy.

37 (D) Lands under the jurisdiction of the Department of
38 Transportation or the California State University system, or land
39 owned by the Regents of the University of California.

1 (E) Lands under the jurisdiction of the Department of Parks and
2 Recreation.

3 (F) Lands under the jurisdiction of the Department of Fish and
4 Wildlife.

5 (3) A lease entered into pursuant to this section shall be set at
6 the amount of the lease's fair market value, as determined by the
7 Director of General Services. The Director of General Services
8 may determine the length of term or a use of the lease, and specify
9 any other terms and conditions that are determined to be in the
10 best interest of the state.

11 (b) The Department of General Services may enter into a
12 long-term lease of real property pursuant to this section that has
13 outstanding lease revenue bonds and for which the real property
14 cannot be disencumbered from the bonds, only if the issuer and
15 trustee for the bonds approves the lease transaction, and this
16 approval takes into consideration, among other things, that the
17 proposed lease transaction does not breach a covenant or obligation
18 of the issuer or trustee.

19 (c) (1) All issuer- and trustee-related costs for reviewing a
20 proposed lease transaction pursuant to this section, and all other
21 costs of the lease transaction related to the defeasance or other
22 retirement of any bonds, including the cost of nationally recognized
23 bond counsel, shall be paid from the proceeds of that lease.

24 (2) The Department of General Services shall be reimbursed
25 for any reasonable costs or expenses incurred in conducting a
26 transaction pursuant to this section.

27 (3) Notwithstanding subdivision (g) of Section 11011, the
28 Department of General Services shall deposit into the General
29 Fund the net proceeds of a lease entered into pursuant to this
30 section, after deducting the amount of the reimbursement of costs
31 incurred pursuant to this section or the reimbursement of
32 adjustments to the General Fund loan made pursuant to Section 8
33 of Chapter 20 of the 2009-10 Fourth Extraordinary Session from
34 the lease.

35 (d) The Department of General Services shall transmit a report
36 to each house of the Legislature on or before June 30, 2011, and
37 on or before June 30 each year thereafter, listing every new lease
38 that exceeds a period of five years entered into under the authority
39 of this section and the following information regarding each listed
40 lease:

SB 741

— 18 —

- 1 (1) Lease payments.
- 2 (2) Length of the lease.
- 3 (3) Identification of the leasing parties.
- 4 (4) Identification of the leased property.
- 5 (5) Any other information the Director of General Services
- 6 determines should be included in the report to adequately describe
- 7 the material provisions of the lease.
- 8 SEC. 22. This act is an urgency statute necessary for the
- 9 immediate preservation of the public peace, health, or safety within
- 10 the meaning of Article IV of the Constitution and shall go into
- 11 immediate effect. The facts constituting the necessity are:
- 12 In order to restore the viability of California fairs as soon as
- 13 possible, it is necessary that this act take effect immediately.

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STAFF ANALYSIS
DISCUSSION AND ACTION REGARDING AN
UPDATE OF THE CHRB GOVERNING PROCEDURES FOR HEARINGS

Legislation, Legal and Regulations Committee Meeting
June 19, 2013

BACKGROUND

When the California Horse Racing Board Enforcement Unit serves a disciplinary Complaint against a Licensee, the Licensee also receives a copy of the Governing Procedures that will be used in the prosecution of the matter.

Attachment 1 is the current version of the Governing Procedures served by the Enforcement Unit.

The Governing Procedures are required to be given to the Licensee to inform him or her how the disciplinary hearing will be conducted. Importantly, the Governing Procedures set forth the rights of the Licensee, including the right to discover the evidence that supports the allegations in the Complaint, the right to have counsel represent the Licensee at the Hearing, the right cross examine witnesses and present rebuttable evidence, as well as the appeal rights of the Licensee should the Board of Stewards uphold the Complaint.

Presently, there is only one form of Governing Procedures provided to the Licensee, regardless of the type of Rule violation alleged or the penalty to be requested. Staff Counsel and the Office of the Attorney General have reviewed the current Governing Procedures and propose adopting the three separate Governing Procedures, depending upon the type of Rule violation alleged and the penalty sought.

ANALYSIS

A: Attachment 2 is the proposed Governing Procedures for non-drug related violations before the Board of Stewards.

Attachment 2 mirrors the current Governing Procedures with one important addition. Paragraph 9 distinguishes between a hearing seeking to revoke a license and a non-revocation hearing. The current Governing Procedures are silent in this

important regard and do not provide the Licensee with a clear understanding of his or her rights. In the cases where the revocation of a license is sought, the totality of Chapter 5 (Administrative Adjudication: Formal Hearing) of the Administrative Procedure Act applies, Government Code section 11500 et seq, as mandated by Business and Professions Code section 19461. A revocation hearing will not be conducted by the Board of Stewards, but will be heard by an Administrative Law Judge, hearing officer or referee who will be taking evidence and drafting a proposed decision on behalf of the California Horse Racing Board to consider. Attachment 2 makes clear that the Board of Stewards may refer a matter to the California Horse Racing Board if license revocation is determined to be appropriate.

However, if license revocation is **not** sought, Business and Professions Code section 19461 does not require the disciplinary hearing to be conducted pursuant to Chapter 5 of the APA. In the past and currently, non-revocation hearings before the Board of Stewards are conducted pursuant to the Governing Procedures in Attachment 1. Attachment 2 more clearly delineates how non-revocation disciplinary hearings before the Board of Stewards are to be conducted. Attachment 2 provides the non-revocation hearing will be conducted under Government Code section 11513 (Evidence; examination of witness), Government Code section 11514 (Affidavits) and Government Code section 11515 (Official Notice). Further, Attachment 2 conforms to the Administrative Adjudication Bill of Rights stated in Government Code section 11425.10.

Finally, Attachment 2 authorizes hearing officers to hear appeals in addition to Administrative Law Judges and referees.

B. Attachment 3 is the proposed Governing Procedures for non-revocation Class 1, 2 or 3 Drug Violation cases.

Attachment 3 is consistent with the Attachment 2, with an additional provision regarding a Licensee's right to elect to have the matter heard by the Board of Stewards or a hearing officer as permitted by Business and Professions Code section 19517.5.

Appeals from a non-revocation drug violation case will be heard directly by the California Horse Racing Board.

C. Attachment 4 is the proposed Governing Procedures for Class 1, 2 or 3 Drug Violation cases where revocation of license is the penalty sought.

Revocation of a California Horse Racing Board license requires the proceedings to be conducted pursuant to Chapter 5 of the APA, Government Code section 11500 et seq.

RECOMMENDATION:

Staff recommends the Committee endorse the proposed Governing Procedures and recommend adoption by the California Horse Racing Board.

CALIFORNIA HORSE RACING BOARD
GOVERNING PROCEDURE
CHRB 204A



GOVERNING PROCEDURE FOR HEARING
BEFORE BOARD OF STEWARDS

1. You are entitled to reasonable advance notice of the charges against you. You are also entitled to receive, in advance of the hearing, copies of all investigative reports and support documentation which the California Horse Racing Board (CHRB) investigators relied upon in bringing the charges against you, as well as all documents which the CHRB intends to put in evidence at the hearings.
2. You will have an opportunity to present your side of the case and rebut the case against you, including the opportunity to cross-examine witnesses who testify against you. You must bring all of your witnesses and all of your evidence to the hearing.
3. You are entitled to be represented by an attorney at the hearing.
4. The hearing shall be open to the public.
5. All or part of the hearing may be conducted telephonically, to the extent that all parties agree, and to the extent that each participant has an opportunity to participate in and to hear the proceeding while it is taking place.
6. If you believe that a steward on the Board of Stewards who will hear your case is biased or prejudiced against you, or has an interest in the outcome of the proceeding, you may challenge the steward. Upon such challenge, the steward may either disqualify him/herself or put the decision to the Board of Stewards, who must then decide whether you have stated a basis for disqualification of the steward. If a steward is disqualified, another steward will be appointed to sit on the Board of Stewards for purposes of hearing the matter. If the challenged steward is not disqualified, you may challenge the decision not to disqualify the steward as a separate matter on appeal. The decision of a steward or the Board of Stewards regarding such challenge is final.
7. From the time that the Complaint and Notice to Appear issues until the Board of Stewards renders its decision, you may not communicate, in any manner, directly or indirectly, with the Board of Stewards, unless at the same time, the communication is shared with all parties to the proceedings including the CHRB. This rule applies equally to the CHRB and its representatives.
8. You may request a subpoena for the production of witnesses or documents at the hearing. The Executive Director of the CHRB shall issue subpoenas at the request of any party to the matter for the purpose of compelling attendance at the attendance of a witness or the production of documents at the hearing. The Board of Stewards will decide disputes.

CALIFORNIA HORSE RACING BOARD
GOVERNING PROCEDURE
CHRB 204A



GOVERNING PROCEDURE FOR HEARING
BEFORE BOARD OF STEWARDS

9. A verbatim record of the proceedings will be made, using either a shorthand reporter or a tape recorder. You may request a tape recording or a transcript of the hearing from the CHRB. It will be provided to you free of charge.

10. You will receive a written decision after the hearing. The decision will be written by the majority, be based on the record, and include a statement of the factual and legal basis for the decision. The decision will also include a description of the penalty imposed, if any. The Board of Stewards will take action upon a majority decision. In the event of a split vote, each steward shall file a separate written decision on the matter.

11. You have 72 hours from the receipt of the written decision to appeal the Board of Stewards decision to the CHRB. You may request a stay of any penalty pending appeal.

12. If you timely appeal a Board of Stewards' decision, the matter will be heard on behalf of the CHRB by an administrative law judge (ALJ) or referee designated by the CHRB. On appeal, you bear the burden of showing that the law was improperly interpreted or applied by the Stewards and/or that the stewards' factual determinations were not supported by substantial evidence or that the best interest of racing in the State maybe better served by reversal or modification of the stewards decision. The ALJ/referee will draft a proposed decision and submit it to the CHRB.

13. The CHRB may adopt, modify and adopt, or reject the proposed decision of the ALJ/referee.

14. If you are dissatisfied with the CHRB's decision, you may appeal that decision to Superior Court.

**GOVERNING PROCEDURE FOR DISCIPLINARY HEARING
BEFORE BOARD OF STEWARDS**

1. You are entitled to reasonable advance notice of the charges against you. You are also entitled to receive, in advance of the hearing, copies of all investigative reports and support documentation which the California Horse Racing Board (CHRB) investigators relied upon in bringing the charges against you, and the CHRB will exchange with you copies of all documents which each party intends to put in evidence at the hearing.
2. You will have an opportunity to present your side of the case and rebut the case against you, including the opportunity to cross-examine witnesses who testify against you. You must bring all of your witnesses and all of your evidence to the hearing.
3. You are entitled to be represented by an attorney at the hearing.
4. The hearing shall be open to the public.
5. All or part of the hearing may be conducted telephonically to the extent that all parties agree and to the extent that each participant has an opportunity to participate in and to hear the proceeding while it is taking place.
6. If you believe that a steward on the Board of Stewards who will hear your case is biased or prejudiced against you or has an interest in the outcome of the proceeding, you may challenge that steward. Upon such challenge, the steward may either disqualify him/herself or put the decision to the Board of Stewards, who must then decide whether you have stated a basis for disqualification of that steward. If a steward is disqualified, another steward, will be appointed for purposes of hearing the matter. If the steward is not disqualified, you may challenge the decision not to disqualify the steward as a separate matter on appeal. The decision of the Board of Stewards regarding such challenge is final.
7. While the proceeding is pending, beginning with the issuance of the Complaint and Notice to Appear, you may not communicate, in any manner, directly or indirectly, with the Board of Stewards regarding any issue in the proceeding, unless, at or before the time the communication is made, the communication is shared with all the parties to the proceeding including the CHRB, and an opportunity is afforded to all parties to participate in the communication. This rule applies equally to the CHRB and its representatives. Nothing herein precluded communications made on the record at the hearing. Applicable exception to, and clarifications of, this rule are found in Government Code sections 11430.10 through 11430.80.
8. You may request a subpoena for the production of witnesses at the hearing and/or the production of documents at a reasonable time and place or at the hearing. The Executive Director of the CHRB shall issue subpoenas at the request of any party to the matter for the purpose of compelling attendance of a witness at the hearing or the production of documents. The Board of Stewards, hearing officer or referee will decide disputes.

CALIFORNIA HORSE RACING BOARD
GOVERNING PROCEDURE
CHRB-204A-1

STATE OF CALIFORNIA

9. The Stewards may refer your matter to the CHRB if license revocation is determined to be appropriate. In that case, Chapter 5 of the Administrative Procedure Act will apply to the proceedings to revoke your license and will supplant any inconsistent provisions herein. Chapter 5 is Government Code sections 11500 et seq. If the matter is not referred to the CHRB, the proceedings will be held before the Board of Stewards, Hearing Officer or Referee under the evidentiary provisions of Government Code sections 11513, 11513 and 11515, but Chapter 5 will not otherwise apply.
10. A verbatim record of the proceedings will be made, using either a shorthand reporter or a tape recorder. You may request a record of the hearing from the CHRB. A tape or transcript of the hearing will be provided to you free of charge.
11. You will receive a written decision after the hearing. The written decision will include a statement of the factual and legal basis for the decision. The statement of the factual basis for the decision shall be based on the evidence of record and on matters officially noticed in the proceeding. The decision will also include a description of the penalty imposed, if any. The Board of Stewards will take action upon a majority decision. In the event the decision is not unanimous, one or more dissenting or concurring decisions shall be filed. Each steward shall file his/her own written decision or join in a written decision on the matter.
12. You may appeal the decision of the Board of Stewards' decision to the CHRB. Appeals must be received by a CHRB employee at any of its offices not later than 72 hours from the date of the decision.
13. If you timely appeal a decision, the matter will be heard on behalf of the CHRB by an administrative law judge (ALJ), a referee or a hearing officer designated by the CHRB. The ALJ, referee or hearing officer will draft a proposed decision and submit it to the CHRB. On appeal, you bear the burden of proving the facts necessary to sustain the appeal. The CHRB will consider evidence that was presented to the Board of Stewards. It will also consider whether the stewards mistakenly interpreted the law, whether new evidence of a convincing nature is produced, and whether the best interests of racing and the state may be better served by overruling the stewards' decision.
14. The CHRB may adopt, modify and adopt, or reject the proposed decision of the ALJ, referee or hearing officer.
15. If you are dissatisfied with the CHRB's decision, you may appeal that decision to the Superior Court.

**GOVERNING PROCEDURE FOR DISCIPLINARY HEARING
BEFORE BOARD OF STEWARDS OR HEARING OFFICER
NON-REVOCATION ENFORCEMENT PROCEEDINGS
ALLEGING CLASS 1, 2, OR 3 DRUG POSITIVE VIOLATION**

1. Your matter will be heard by the Board of Stewards or by a hearing officer. Below, the term "Presiding Officer" shall refer to the individual or individuals who will hear your case whether it be stewards or a hearing officer.
2. You are entitled to reasonable advance notice of the charges against you. You are also entitled to receive, in advance of the hearing, copies of all investigative reports and support documentation which the California Horse Racing Board (CHRB) investigators relied upon in bringing the charges against you, and the CHRB will exchange with you copies of all documents which each party intends to put in evidence at the hearing.
3. You will have an opportunity to present your side of the case and rebut the case against you, including the opportunity to cross-examine witnesses who testify against you. You must bring all of your witnesses and all of your evidence to the hearing.
4. You are entitled to be represented by an attorney at the hearing.
5. The hearing shall be open to the public.
6. All or part of the hearing may be conducted telephonically to the extent that all parties agree and to the extent that each participant has an opportunity to participate in and to hear the proceeding while it is taking place.
7. If you believe that the Presiding Officer is biased or prejudiced against you or has an interest in the outcome of the proceeding, you may challenge the Officer. Upon such challenge, the Officer may disqualify him/herself. If your challenge is to a steward, the steward may put the decision to the Board of Stewards, who must then decide whether you have stated a basis for disqualification of the steward. If your challenge is to a hearing officer, the hearing officer may put the decision to the Executive Director. If a Presiding Officer is disqualified, another Presiding Officer will be appointed as a replacement. If the challenged Officer is not disqualified, you may challenge the decision not to disqualify the Officer as a separate matter on appeal. The decision of the challenged Presiding Officer, the Board of Stewards or Executive Director regarding such challenge is final.
8. From the time the Complaint and Notice to Appear issues until the CHRB renders its decision, you may not communicate, in any manner, directly or indirectly, with the Presiding Officer regarding

GOVERNING PROCEDURE

CHRB-204A-2

any issue in the proceeding, unless, at or before the time the communication is made, the communication is shared with all parties to the proceeding including the CHRB, and an opportunity is afforded to all parties to participate in the communication. This rule applies equally to the CHRB and its representatives. Nothing herein precludes communications made on the record at the hearing. Applicable exceptions to, and clarifications of, this rule are found in Government Code sections 11430.10 through 11430.80.

9. You may request a subpoena for the production of witnesses at the hearing and/or the production of documents at a reasonable time and place or at the hearing. The Executive Director of the CHRB shall issue subpoenas at the request of any party to the matter for the purpose of compelling attendance of a witness at the hearing or the production of documents. The Presiding Officer will decide disputes.
10. The hearing will be conducted under the evidentiary provisions of Government Code sections 11513, 11514 and 11515. Otherwise, the only disciplinary proceedings to which Chapter 5 of the Administrative Procedure Act apply are license revocation proceedings, and the Board does not anticipate seeking a revocation of your license in this matter. Chapter 5 is Government Code sections 11500 et seq.
11. A verbatim record of the proceedings will be made, using either a shorthand reporter or a tape recorder. You may request a record of the hearing from the CHRB. A tape or transcript of the hearing will be provided to you free of charge.
12. The Presiding Officer will draft a proposed decision and submit it to the CHRB. The CHRB may adopt, modify and adopt, or reject the proposed decision of the Presiding Officer. The CHRB's written decision will include a statement of the factual and legal basis for the decision. The statement of the factual basis for the decision shall be based on the evidence of record and on matters officially noticed in the proceeding. The decision will also include a description of the penalty imposed, if any.
13. If you are dissatisfied with the CHRB's decision, you may appeal that decision to the Superior Court.

GOVERNING PROCEDURECHRB 204A-3

**GOVERNING PROCEDURE FOR DISCIPLINARY HEARING
BEFORE BOARD OF STEWARDS OR HEARING OFFICER
REVOCATION ENFORCEMENT PROCEEDINGS
ALLEGING CLASS 1, 2, OR 3 DRUG POSITIVE VIOLATION**

1. Your matter will be heard by the Board of Stewards or by a hearing officer. Below, the term "Presiding Officer" shall refer to the individual or individuals who will hear your case whether it be stewards or a hearing officer.
2. You are entitled to reasonable advance notice of the charges against you. You are also entitled to receive, in advance of the hearing, copies of all investigative reports and support documentation which the California Horse Racing Board (CHRB) investigators relied upon in bringing the charges against you, and the CHRB will exchange with you copies of all documents which each party intends to put in evidence at the hearing.
3. You will have an opportunity to present your side of the case and rebut the case against you, including the opportunity to cross-examine witnesses who testify against you. You must bring all of your witnesses and all of your evidence to the hearing.
4. You are entitled to be represented by an attorney at the hearing.
5. The hearing shall be open to the public.
6. All or part of the hearing may be conducted telephonically to the extent that all parties agree and to the extent that each participant has an opportunity to participate in and to hear the proceeding while it is taking place.
7. If you believe that the Presiding Officer is biased or prejudiced against you or has an interest in the outcome of the proceeding, you may challenge the Officer. Upon such challenge, the Officer may disqualify him/herself. If your challenge is to a steward, the steward may put the decision to the Board of Stewards, who must then decide whether you have stated a basis for disqualification of the steward. If your challenge is to a hearing officer, the hearing officer may put the decision to the Executive Director. If a Presiding Officer is disqualified, another Presiding Officer will be appointed as a replacement. If the challenged Officer is not disqualified, you may challenge the decision not to disqualify the Officer as a separate matter on appeal. The decision of the challenged Presiding Officer, Board of Stewards or Executive Director regarding such challenge is final.
8. From the time the Complaint and Notice to Appear issues until the CHRB renders its decision, you may not communicate, in any manner, directly or indirectly, with the Presiding Officer regarding

any issue in the proceeding, unless, at or before the time the communication is made, the communication is shared with all parties to the proceeding including the CHRB, and an opportunity is afforded to all parties to participate in the communication. This rule applies equally to the CHRB and its representatives. Nothing herein precludes communications made on the record at the hearing. Applicable exceptions to, and clarifications of, this rule are found in Government Code sections 11430.10 through 11430.80.

9. You may request a subpoena for the production of witnesses at the hearing and/or the production of documents at a reasonable time and place or at the hearing. The Executive Director of the CHRB shall issue subpoenas at the request of any party to the matter for the purpose of compelling attendance of a witness at the hearing or the production of documents. The Presiding Officer will decide disputes.
10. Chapter 5 of the Administrative Procedure Act (Government Code section 11500 et seq.) is applicable to this proceeding except for the provisions of Chapter 5 that are inconsistent with Business & Professions Code, section 19517.5 or any other section of the Horse Racing Law (Chapters 4 and 4.5, Division 8 of the Business & Professions Code.)
11. A verbatim record of the proceedings will be made, using either a shorthand reporter or a tape recorder. You may request a record of the hearing from the CHRB. A tape or transcript of the hearing will be provided to you free of charge.
12. The Presiding Officer will draft a proposed decision and submit it to the CHRB. The CHRB may adopt, modify and adopt, or reject the proposed decision of the Presiding Officer. The CHRB's written decision will include a statement of the factual and legal basis for the decision. The statement of the factual basis for the decision shall be based on the evidence of record and on matters officially noticed in the proceeding. The decision will also include a description of the penalty imposed, if any.
13. If you are dissatisfied with the CHRB's decision, you may appeal that decision to the Superior Court.