

ASSEMBLY BILL

No. 856

Introduced by Assembly Member Wesson

February 22, 2001

An act to amend Sections 19461, 19481.5, and 19556 of, to add Sections 19461.5, 19526, 19613.8, and 19641.2 to, and to add Article 2.5 (commencing with Section 19455) to Chapter 4 of Division 8 of, the Business and Professions Code, relating to horse racing.

LEGISLATIVE COUNSEL'S DIGEST

AB 856, as introduced, Wesson. Horse racing.

(1) Existing law authorizes wagering on the result of live and simulcast horse races, subject to the regulation and oversight of the California Horse Racing Board, and requires the licensure of various persons and entities associated with this industry. Existing law also imposes specified requirements on the operation of race tracks, backstretch facilities, and stabling and vanning services, and establishes pension funds and welfare funds for the benefit of backstretch personnel and horsemen.

This bill would state findings and declarations of the Legislature regarding the employment rights of racetrack backstretch employees, and direct the California Horse Racing Board to oversee the conduct of a union and multiemployer collective bargaining agent recognition procedure subject to specified conditions and procedures, provide for resultant labor agreements to be binding on the parties, and establish reasonable rules to regulate the time, place, and manner of representational meetings within the racetrack enclosure. This bill would also authorize individual trainers to opt out of the multiemployer bargaining process, subject to specified conditions, and require each

trainer to keep accurate payroll records for all of his or her employees, subject to audit by the Labor Commissioner as specified, containing specified information and signed declarations made under penalty of perjury, which would be available for inspection by, or furnished to, the employee, his or her authorized representative, the board, the administrators of specified pension and health and welfare funds, or the Division of Labor Standards Enforcement of the Department of Industrial Relations. By requiring these declarations to be made under penalty of perjury, this bill would create a crime and thereby impose a state-mandated local program.

(2) Existing law provides that every license granted under the Horse Racing Law is subject to suspension or revocation in any case where the board has reason to believe that any condition regarding the license has not been complied with, or that any provision of law or any rule or regulation of the board affecting it has been broken or violated.

This bill would expand this suspension and revocation authority to expressly include violations of the Labor Code and regulations adopted thereunder. This bill would also provide that upon a finding by the Labor Commissioner that a violation of any provision of the Labor Code under his or her jurisdiction has been committed by a person licensed under the Horse Racing Law, that upon expiration of the applicable period for appeal he or she shall notify the board of that finding.

(3) Existing law provides that no license to conduct a horse racing meeting shall be issued unless the track has been inspected and approved by the board as to specified racetrack safety standards within 30 days prior to the date of application.

This bill would additionally provide that the board shall, within 120 days of the effective date of this act, adopt emergency regulations, as specified, to establish employee housing standards at licensed racetracks, which shall be replaced by final, permanent regulations with 18 months thereafter, which racing associations shall be in compliance with by January 1, 2004, and as of that date would require the board, in conjunction with the Department of Housing and Community Development or a local housing authority in that jurisdiction, to annually inspect the living conditions of backstretch employee housing and submit these findings to the board. The bill would provide that no license to conduct a horse racing meeting shall be issued to a racing association unless the board has inspected the housing conditions that



exist on that track's backstretch and determined them to be in compliance with these standards.

(4) Existing law requires each licensed racing association to designate a certain number of racing days to be conducted as charity days for the purpose of the distribution of the net proceeds therefrom to beneficiaries, and requires that at least 20% of the distributions therefrom to be made to charities associated with the horse racing industry.

This bill would increase this distribution requirement to 50%. This bill would also specify that an existing specified backstretch employee welfare fund shall be a health and welfare trust fund administered without prejudice for the benefit of every eligible person, that the fund and benefits shall be administered in accordance with specified standards established in federal law, subject to oversight and regulation of the board, and that the welfare fund board be expanded, by March 1, 2002, to include 2 additional groom and stable employee licenses, also would be replaced by designees of a labor union with 60 days of that union having been chosen as the exclusive collective bargaining agent of a statewide majority of backstretch workers.

(5) Existing law provides that racing associations and fairs shall pay, from the portion deducted for purses, an amount equal to 1% of that portion for a pension plan for backstretch personnel to be administered by the respective trainers' organizations.

This bill would provide that within 60 days of a union having been chosen as the exclusive collective bargaining agent for a statewide majority of backstretch workers, the respective organization of horsemen or trainers shall submit a pension plan for backstretch personnel to the board. This bill would require that the plan be administered by a joint labor-management committee consistent with specified provisions of federal law.

(6) This bill would provide that its provisions are severable as specified.

(7) 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. Article 2.5 (commencing with Section 19455)
2 is added to Chapter 4 of Division 8 of the Business and Professions
3 Code, to read:

4

5 Article 2.5. Backstretch Worker Labor Relations

6

7 19455. (a) The Legislature finds and declares that Section
8 923 of the Labor Code recognizes that it is necessary that the
9 individual worker have full freedom of association,
10 self-organization, and designation of representatives of his or her
11 own choosing, to negotiate the terms and conditions of his or her
12 employment, and that he or she shall be free from the interference,
13 restraint, or coercion of employers of labor, or their agents, in the
14 designation of such representatives or in self-organization or in
15 other concerted activities for the purpose of collective bargaining.

16 (b) The Legislature finds that the National Labor Relations
17 Board has formally declined to assert jurisdiction over horse
18 racing because of extensive state control over the industry, the
19 dominant pattern of sporadic short-term employment which poses
20 problems for the effective enforcement of the National Labor
21 Relations Act, and a unique and special relationship that has
22 developed between the states and the industry.

23 (c) It is the intent of the Legislature to establish an orderly
24 procedure for backstretch employees to exercise their statutory
25 rights to organize a labor union, in order to reduce the prospect of
26 any strikes, disruptions, or economic action that would interfere
27 with the operation of horse racing meetings in California.

28 (d) Except as provided in subdivision (e), the board shall
29 oversee the conduct of a union recognition procedure for
30 backstretch employees under the following conditions:

31 (1) Employees shall have the right to join, or refuse to join, a
32 labor organization for purposes of collective bargaining and
33 mutual aid and protection. Existing state-recognized organizations
34 of trainers or horsemen established pursuant to the Horse Racing
35 Law shall not use funds derived or distributed from parimutuel
36 wagering pursuant to state law to advocate or advance any position
37 with respect to unionization of employees. Individual trainers and
38 horsemen, and their agents, shall not coerce or threaten any



1 employee of any trainer or horseman in the context of an effort to
2 obtain or revoke an employee authorization card with respect to
3 selection by any backstretch employee of any labor union or
4 collective bargaining agent. No employee shall be discharged or
5 discriminated against for expressing any opinion concerning the
6 selection of a labor union or collective bargaining agent for
7 employees under this article.

8 (2) The labor union and its representatives shall not coerce or
9 threaten any employee of any trainer or horseman in the context
10 of an effort to obtain or revoke authorization cards. The union and
11 its representatives shall not interfere with the work of any
12 employee, but shall have reasonable access to backstretch workers
13 within the enclosure during working and nonworking hours, as
14 determined by the board.

15 (3) Within 30 days of a request, the board shall provide the
16 labor union with a list of all backstretch workers including the type
17 of license they hold, their employer, the location at which they are
18 employed, and their address and telephone number. The board
19 may require of any licensee information in the licensee's
20 possession necessary to comply with this requirement.

21 (4) The labor union may request board recognition as the
22 exclusive bargaining agent for employees in any bargaining unit
23 or of any employer, subject to the provisions and procedures
24 described in paragraph (5). The Executive Director of the Board,
25 or a disinterested neutral party selected by the Executive Director,
26 shall have the authority to investigate and determine the validity
27 of employee authorization cards submitted pursuant to this
28 section, and shall conduct a review of cards submitted by a union
29 in support of its claim to represent the majority of employees of an
30 individual employer or the majority of employees within a
31 bargaining unit approved by the board pursuant to paragraph (5).
32 In the case of thoroughbred racing, a labor union may request
33 recognition as the exclusive bargaining agent for backstretch
34 employees by racetrack or by geographical zone, as defined in
35 Section 19530.5; in the case of harness and quarter horse racing,
36 a labor union may request recognition as the exclusive bargaining
37 agent for backstretch employees by racetrack; in the case of fairs,
38 a labor union may request recognition as the exclusive bargaining
39 agent for backstretch employees by geographical zone, by fair, or
40 by groups of fairs. "Appropriate bargaining unit" includes any



1 community of interest of backstretch workers, including, but not
2 limited to, geographic, occupational, and type of horse racing.
3 “Backstretch employee” means a groom or stable employee
4 licensed by the board pursuant to subdivision (c) of Section 1481
5 of Division 4 of Title 4 of the California Code of Regulations.

6 (5) The board, by regulation, shall establish procedures for the
7 recognition of collective bargaining representatives for both
8 backstretch workers and the employers of those workers. In all
9 matters pertaining to the rights established pursuant to this article,
10 the board, upon the complaint of a party, shall have the authority
11 to fashion an appropriate remedy, including the issuance of a
12 make-whole remedy in the event of persistent failure of a party to
13 bargain in good faith. Nothing in this section shall prohibit the
14 board from requiring the parties to any dispute to submit the issue
15 to binding arbitration pursuant to paragraph (8). In addition, the
16 board may contract with state mediation and conciliation services
17 for all appropriate purposes, including operations related to the
18 conduct of recognition procedures and elections.

19 (A) With respect to backstretch workers, a labor organization
20 seeking recognition as the collective bargaining agent for these
21 workers shall collect signed cards indicating individual worker’s
22 intent to be represented by that organization for collective
23 bargaining purposes and submit those cards to the board for review
24 and validation by the executive director. A labor union is free to
25 define the characteristics of a potential collective bargaining unit
26 subject to approval by the board pursuant to paragraph (4). Upon
27 submission, review, and validation of cards indicating that a
28 majority of employees within a defined unit wish to be represented
29 by that union, the board shall recognize that union as the exclusive
30 collective bargaining agent for those workers, and issue an order
31 to affected employers to begin good faith negotiations for approval
32 of employment agreements pursuant to the procedures described
33 in subparagraphs (B) and (C). Employee authorization cards
34 collected for purposes of this paragraph shall be deposited with the
35 board and shall remain valid for one year starting on the date that
36 the submitting labor organization is granted permission by the
37 board to begin organizing activities in a given location, facility,
38 region, or unit. After the expiration of this period, no further
39 organizing efforts may be conducted with respect to that location,
40 facility, region, or unit for a period of one year. Employee



1 authorization cards may be revoked by the employee at any time
2 prior to final certification of the union as his or her exclusive
3 collective bargaining agent with respect to his or her employer.

4 (B) Upon the recognition of a union as the exclusive collective
5 bargaining agent for a given unit of backstretch workers, the
6 Executive Director of the board shall identify the trainers and
7 horsemen employing those workers, provide this information to
8 the union, and may conduct an election among those employers for
9 the selection of a designated agent or agents to represent the
10 interests of participating employers in a multiemployer
11 employment agreement with the union. Each voting employer
12 shall be allotted one vote per employee within the collective
13 bargaining unit, and the agent or agents receiving the largest
14 plurality of votes shall be designated by the board as representing
15 the participating employers. The agent or agents negotiating on
16 behalf of the participating employers are expressly authorized to
17 organize collective bargaining committees, approved by the
18 board, that reflect the differences and circumstances of individual
19 trainers, and are free to negotiate terms that provide varying wages
20 and conditions of employment based on the economic
21 circumstances of individual trainers. Any employer may opt out
22 of these multiemployer bargaining procedures subject to the
23 provisions of subparagraph (C).

24 (C) If an individual employer of backstretch workers declines
25 to be represented in the multiemployer collective bargaining
26 procedure described in subparagraph (B), and a majority of that
27 particular employer's workers within the identified unit had
28 submitted valid cards indicating their intent to be represented by
29 the union, the board shall certify the union as the collective
30 bargaining agent of those workers and shall issue an order to begin
31 good faith negotiations for employment agreements on an
32 individual employer basis. If less than a majority of the opting-out
33 employer's workers within the identified unit had submitted valid
34 cards indicating their intent to be represented by the union, that
35 employer shall not be subject to a bargaining order issued by the
36 board, but may voluntarily agree to negotiate collectively with the
37 union if it so desires, and an organizing union may continue to seek
38 and submit employee authorization cards on an individual
39 employer basis for purposes of recognition and mandatory
40 negotiation under this subparagraph until the expiration of the one



1 year period identified in subparagraph (A). The board may provide
2 mediation and conciliation services upon request of the parties at
3 any time. If an employer is required under this subparagraph to
4 collectively bargain with the union, and the parties do not reach an
5 agreement within 90 days, the board shall require the parties to
6 participate in mandatory mediation and conciliation services for a
7 period of 30 days. If no agreement results from this mediation,
8 either or both parties may declare an impasse. Upon a party's
9 declaration of an impasse, the Executive Director of the Board
10 shall appoint an arbitrator from a panel of preselected professional
11 arbitrators with expertise in labor negotiations to determine the
12 issues and issue a final and binding order establishing the terms of
13 a collective bargaining agreement. The cost of this arbitration shall
14 be shared equally by the union and employer.

15 (6) No labor agreement under this article shall apply to any
16 trainer or horseman with respect to employment associated with
17 fair meetings prior to January 1, 2003. After this date, employees
18 shall be added by accretion into an existing contract where
19 applicable. This section shall not apply to employers whose
20 trainers, backstretch workers, or both, normally reside and work
21 outside of California and who are engaged in racing in this state
22 for a limited period of time not exceeding 90 racing days in any
23 calendar year.

24 (7) At any time subsequent to the expiration of an agreement
25 under paragraph (5), when the agreement is not in effect, the board
26 may recognize a majority interest, obtained during this period in
27 the same manner as union recognition of employees, within a unit
28 who no longer desire to be represented by the union, and withdraw
29 the recognition granted pursuant to this section from that union.
30 An employer may inform his or her employees that a process for
31 decertification exists and direct them to the board for information.
32 However any card, signature, vote, or other indicator obtained for
33 this purpose by means of coercion or threat or with the assistance
34 or inducement of any employer shall be invalid.

35 (8) Disputes, other than disputes concerning the operation and
36 application of ongoing contracts, disputes subject to binding
37 interest arbitration pursuant to subparagraph (C) of paragraph (5),
38 and economic disputes arising in the context of multiemployer
39 bargaining pursuant to subparagraph (B) of paragraph (5), but
40 including disputes concerning the rights established in paragraphs



1 (1) and (2), upon complaint shall be adjudicated by the board, and
2 the board may require the parties to submit the issue to binding
3 arbitration subject to judicial review in the same manner as
4 decisions of the board. Disputes subject to this paragraph include
5 disputes involving any backstretch employee or group of
6 employees, and any trainer or group of trainers. Upon submission
7 of a complaint to binding arbitration, the board shall select an
8 arbitrator who is mutually accepted by the affected parties, with
9 hearing to be held within 72 hours of written notice to the parties.
10 If the parties are unable to reach agreement prior to the
11 commencement of arbitration, the board shall provide the parties
12 with a list of qualified arbitrators, from which the parties shall
13 alternately strike an equal number of names until one remains, who
14 shall be the selected arbitrator. The selected arbitrator shall have
15 the authority to order any remedy, including injunctive relief,
16 damages, and attorney's fees. Either party may bring an action in
17 state court to compel a party to go to arbitration or to enforce the
18 decision of the arbitrator, and the board may take administrative
19 action as necessary to ensure this paragraph is complied with. The
20 board may delegate all or part of its authority under this paragraph
21 to the executive director. Costs of arbitration shall be shared
22 equally by the parties, and any party shall be entitled to recover any
23 reasonable fees or costs incurred in securing compliance with or
24 enforcement of an award or order of the arbitrator.

25 (e) Nothing in this section shall prevent a labor union and an
26 individual trainer, or any group of trainers, from entering into a
27 mutually acceptable agreement, which may substitute for the
28 requirements of subdivision (d), for union organizing of
29 employees of the horsemen or trainers. Nothing in this article shall
30 be interpreted to require representative parties in negotiation to
31 enter into any labor agreement, as long as each party is negotiating
32 in a good faith effort to reach an agreement.

33 19455.2. (a) The board shall provide for labor agreements
34 under this article to be binding upon every applicable licensee.

35 (b) No horseman or trainer who has a separate agreement with
36 the exclusive representative labor union shall be required to be a
37 party to a multiemployer collective bargaining agreement.

38 19455.4. The board may establish reasonable rules to regulate
39 the time, place, and manner for representatives of labor unions to
40 meet backstretch workers within the enclosure during working and



1 nonworking hours. With the approval of the board, these
2 regulations may be superceded by collective bargaining
3 agreements between horsemen's organizations or trainers'
4 organizations and labor organizations.

5 SEC. 2. Section 19461 of the Business and Professions Code
6 is amended to read:

7 19461. Every license granted under this chapter is subject to
8 suspension or revocation by the board in any case where the board
9 has reason to believe that any condition regarding it has not been
10 complied with, or that any law, *including the Labor Code and the*
11 *regulations adopted thereunder*, or any rule or regulation of the
12 board affecting it has been broken or violated.

13 All proceedings to revoke a license shall be conducted in
14 accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the
15 Government Code.

16 SEC. 3. Section 19461.5 is added to the Business and
17 Professions Code, to read:

18 19461.5. Upon a finding by the Labor Commissioner that a
19 violation of any provision of the Labor Code, within the
20 jurisdiction of the Labor Commissioner, has been committed by a
21 person licensed pursuant to this chapter in the course of such
22 licensed activity, the Labor Commissioner shall, upon expiration
23 of the applicable period for appeal, notify the board of that finding.

24 SEC. 4. Section 19481.5 of the Business and Professions
25 Code is amended to read:

26 19481.5. (a) Notwithstanding any other provision of law, no
27 license shall be issued to conduct a horse racing meeting *upon a*
28 *track* unless the track has been inspected by the board within 30
29 days prior to the date of application for a license and the track has
30 been approved by the board as conforming to the racetrack safety
31 standards set forth in subdivision (a) of Section 19481, ~~and the~~
32 ~~board determines that the proposed licensee is in substantial~~
33 ~~compliance with all of the rules and regulations of the board and~~
34 ~~the provisions of this chapter.~~

35 (b) *The board shall, within 120 days of the effective date of this*
36 *subdivision, adopt emergency regulations in accordance with the*
37 *Administrative Procedure Act (Chapter 3.5 (commencing with*
38 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
39 *Code) to establish standards governing the employee housing*
40 *provided to backstretch personnel at licensed racetracks. These*



1 regulations shall be deemed to be an emergency and necessary for
2 the immediate preservation of the public peace, health and safety,
3 or general welfare, shall be commensurate with the housing
4 standards established in the Employee Housing Act (commencing
5 with Section 17000 of Division 13 of the Health and Safety Code),
6 and shall consider the following:

7 (1) The health and safety of the human and equine population
8 and the necessity for humans and horses to live in close proximity.

9 (2) The housing needs of state or county facilities with live
10 racing meeting of no more than 43 days in duration that do not
11 operate as year-round training facilities. The board shall
12 specifically consider the different needs of these facilities
13 compared to permanent facilities or other state and county
14 facilities that function on a year-round basis, including state and
15 county fair facilities that operate as a year-round training
16 facilities where horses are stabled and workers live.

17 (3) Compliance of facilities with racing meetings of 19 days or
18 less to this subdivision shall be contingent on funding in the
19 2002–03 Budget Act.

20 These emergency regulations shall be submitted to the Office of
21 Administrative Law for filing with the Secretary of State and
22 publication in the California Code of Regulations and shall be
23 replaced by final, permanent regulations within 18 months of their
24 adoption. Every racing association shall be in compliance with
25 these housing standards by January 1, 2004.

26 (c) Commencing January 1, 2004, the board, in conjunction
27 with the California Department of Housing and Community
28 Development or a local housing authority for the jurisdiction in
29 which the race track is located, shall annually inspect the living
30 conditions of backstretch employee housing to ensure compliance
31 with the housing standards established by the board, the findings
32 or results of which shall be submitted to the board. No license shall
33 be issued to a racing association to conduct a horse race meeting
34 unless the board has inspected the housing conditions that exist on
35 the race track's backstretch and determined the living conditions
36 to be in compliance with the standards established by the board in
37 subdivision (b).

38 (d) The board may assess a reasonable fee upon racing
39 associations to defray the costs associated with the inspections
40 provided for in subdivision (c).



1 SEC. 5. Section 19526 is added to the Business and
2 Professions Code, to read:

3 19526. (a) Each trainer shall keep accurate payroll records,
4 showing the name, address, social security number, work
5 classification, straight time and overtime hours worked each day
6 and week, paid to each of his or her employees. Each payroll
7 record shall contain both of the following signed declarations by
8 the trainer, which shall be made under penalty of perjury:

9 (1) That the information contained in the payroll record is true
10 and correct.

11 (2) That the employer has complied with the requirements of
12 Labor Code and applicable wage orders of the Industrial Welfare
13 Commission.

14 (b) The payroll records enumerated under subdivision (a) shall
15 be certified and shall be available for inspection at all reasonable
16 hours at the principal office of the trainer on the following basis:

17 (1) A certified copy of an employee's payroll record shall be
18 made available for inspection or furnished to the employee or his
19 or her authorized representative upon request.

20 (2) A certified copy of all payroll records enumerated in
21 subdivision (a) shall be made available for inspection or furnished
22 upon request to the board and the Division of Labor Standards
23 Enforcement of the Department of Industrial Relations.

24 (3) On or before January 31 of each year, each trainer shall
25 provide copies of federal W-2 and 1099 tax forms for his or her
26 backstretch employees for the previous calendar year to the
27 administrator of the pension fund for backstretch employees.

28 (c) The certified payroll records described in this section shall
29 be on forms provided by the Division of Labor Standards
30 Enforcement or shall contain the same information as the forms
31 provided by the division.

32 (d) A trainer shall file a certified copy of the records
33 enumerated in subdivision (a) to an employee or his or her
34 authorized representative within 10 days after receipt of a written
35 request.

36 (e) The trainer shall inform the board of the location of the
37 records enumerated under subdivision (a), including the street
38 address, city and county, and shall, within five working days,
39 provide a notice of a change of location and address.



1 (f) In addition to any other penalty imposed by law, any trainer
2 who fails to provide access to the records enumerated in
3 subdivision (a) to the board, the employee or his or her authorized
4 representative, the administrator of the pension or welfare funds,
5 or to the Division of Labor Standards enforcement as required by
6 law shall be subject to suspension of his or her license.

7 (g) Except for trainers covered by an operative collective
8 bargaining agreement pursuant to Section 19613.7, the board shall
9 require, as a condition of issuing or renewing a trainer's license,
10 that the trainer annually submit a certified declaration that they
11 have maintained true and correct payroll records and have
12 complied with the requirements of the Labor Code and applicable
13 wage orders of the Industrial Welfare Commission.

14 (h) The Labor Commissioner shall establish and maintain a
15 program to audit the certified payroll records of trainers who are
16 not parties to a collective bargaining agreement entered pursuant
17 to Article 2.5 (commencing with Section 19455) and who operate
18 in California for 90 or more racing days in a calendar year, in a
19 manner to ensure that every subject licensee is audited at least once
20 prior to January 1, 2006, and as necessary thereafter to ensure that
21 at least 15 percent of subject trainers are audited each year as part
22 of an ongoing program. Evidence of substantial noncompliance
23 with the Labor Code and applicable wage orders of the Industrial
24 Welfare Commission shall be referred by the board to the Labor
25 Commissioner.

26 SEC. 6. Section 19556 of the Business and Professions Code
27 is amended to read:

28 19556. (a) The distribution shall be made by the distributing
29 agent to beneficiaries qualified under this article. For the purposes
30 of this article, a beneficiary shall be all of the following:

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

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

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

40 (4) Approved by the board.



1 (b) At least ~~20~~ 50 percent of the distribution shall be made to
2 charities associated with the horse racing industry. No beneficiary
3 otherwise qualified under this section to receive charity day net
4 proceeds shall be excluded on the basis that the beneficiary
5 provides charitable benefits to persons connected with the care,
6 training, and running of racehorses, except that type of beneficiary
7 shall make an accounting to the board within one calendar year of
8 the date of receipt of any distribution.

9 SEC. 7. Section 19613.8 is added to the Business and
10 Professions Code, to read:

11 19613.8. Within 60 days of a statewide majority of
12 backstretch workers having chosen to be represented by an
13 exclusive collective bargaining agent pursuant to Article 2.5
14 (commencing with Section 19455) or any other law, the respective
15 organization of horsemen, or in the case of the thoroughbred
16 industry the organization of trainers, shall submit a plan to the
17 board for the administration of the pension program by a joint
18 labor-management committee, consistent with the standards
19 established by Section 302 of the Taft-Hartley Act (29 U.S.C. Sec.
20 5186). Notwithstanding Section 19613, upon approval by the
21 board, a joint labor-management committee shall administer the
22 pension program.

23 SEC. 8. Section 19641.2 is added to the Business and
24 Professions Code, to read:

25 19641.2. (a) The nonprofit foundation authorized to receive
26 funds pursuant to Section 19641 shall use those funds to
27 administer a health and welfare trust fund without prejudice and
28 for the benefit of every eligible person. The welfare fund and
29 benefits shall be administered consistent with the standards
30 established by the federal Employee Retirement Income Security
31 Act of 1974 (29 U.S.C. Sec. 1001 and following) subject to the
32 oversight and regulation of the board.

33 (b) Every employer of backstretch workers shall, upon request,
34 submit or provide access to the administrator of the welfare
35 program for backstretch workers any employment records
36 necessary for prompt payment of benefits and proper
37 administration of the program.

38 (c) On or before March 1, 2002, the welfare fund board shall
39 be expanded to include two additional holders of groom or stable
40 employee licenses who are currently employed in these



1 occupations at a California horse racing facility. Within 60 days of
2 a statewide majority of backstretch workers having chosen to be
3 represented by an exclusive bargaining agent pursuant to Article
4 2.5 (commencing with Section 19455) or any other law, that agent
5 shall designate two representatives to replace the board members
6 appointed pursuant to this subdivision.

7 (d) Nothing in this section is intended to affect the status of the
8 welfare fund as a charity under Section 501(c)(3) of the federal
9 Internal Revenue Code or its compliance with the Charitable
10 Purposes Act (Article 7 (commencing with Section 12580) of
11 Chapter 6 of Part 2 of Division 3 of Title 2 of the Government
12 Code).

13 SEC. 9. The provisions of this act are severable. If any
14 provision of this act or its application is held invalid, that invalidity
15 shall not affect other provisions or applications that can be given
16 effect without the invalid provision or application.

17 SEC. 10. No reimbursement is required by this act pursuant
18 to Section 6 of Article XIII B of the California Constitution
19 because the only costs that may be incurred by a local agency or
20 school district will be incurred because this act creates a new crime
21 or infraction, eliminates a crime or infraction, or changes the
22 penalty for a crime or infraction, within the meaning of Section
23 17556 of the Government Code, or changes the definition of a
24 crime within the meaning of Section 6 of Article XIII B of the
25 California Constitution.

