

AMENDED IN ASSEMBLY APRIL 30, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

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 amended, 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



1 wagering pursuant to state law to advocate or advance any position
2 with respect to unionization of employees. Individual trainers and
3 horsemen, and their agents, shall not coerce or threaten any
4 employee of any trainer or horseman in the context of an effort to
5 obtain or revoke an employee authorization card with respect to
6 selection by any backstretch employee of any labor union or
7 collective bargaining agent. No employee shall be discharged or
8 discriminated against for expressing any opinion concerning the
9 selection of a labor union or collective bargaining agent for
10 employees under this article.

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

18 (3) ~~Within~~ *Notwithstanding any other provision of law, within*
19 *30 days of a request, the board shall provide the labor union with*
20 *a list of all backstretch workers including the type of license they*
21 *hold, their employer, the location at which they are employed, and*
22 *their address and telephone number. The board may require of any*
23 *licensee information in the licensee's possession necessary to*
24 *comply with this requirement. The labor union shall use this list*
25 *solely for the purposes of this article. The board may impose an*
26 *appropriate penalty for any other use.*

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



1 Section 19530.5; in the case of harness and quarter horse racing,
2 a labor union may request recognition as the exclusive bargaining
3 agent for backstretch employees by racetrack; in the case of fairs,
4 a labor union may request recognition as the exclusive bargaining
5 agent for backstretch employees by geographical zone, by fair, or
6 by groups of fairs. “Appropriate bargaining unit” includes any
7 community of interest of backstretch workers, including, but not
8 limited to, geographic, occupational, and type of horse racing.
9 “Backstretch employee” means a groom or stable employee
10 licensed by the board pursuant to subdivision (c) of Section 1481
11 of Division 4 of Title 4 of the California Code of Regulations.

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

25 (A) With respect to backstretch workers, a labor organization
26 seeking recognition as the collective bargaining agent for these
27 workers shall collect signed cards indicating individual worker’s
28 intent to be represented by that organization for collective
29 bargaining purposes and submit those cards to the board for review
30 and validation by the executive director. A labor union is free to
31 define the characteristics of a potential collective bargaining unit
32 subject to approval by the board pursuant to paragraph (4). Upon
33 submission, review, and validation of cards indicating that a
34 majority of employees within a defined unit wish to be represented
35 by that union, the board shall recognize that union as the exclusive
36 collective bargaining agent for those workers, and issue an order
37 to affected employers to begin good faith negotiations for approval
38 of employment agreements pursuant to the procedures described
39 in subparagraphs (B) and (C). Employee authorization cards
40 collected for purposes of this paragraph shall be deposited with the



1 board and shall remain valid for one year starting on the date that
2 the submitting labor organization is granted permission by the
3 board to begin organizing activities in a given location, facility,
4 region, or unit. After the expiration of this period, no further
5 organizing efforts may be conducted with respect to that location,
6 facility, region, or unit for a period of one year. Employee
7 authorization cards may be revoked by the employee at any time
8 prior to final certification of the union as his or her exclusive
9 collective bargaining agent with respect to his or her employer.

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

30 (C) If an individual employer of backstretch workers declines
31 to be represented in the multiemployer collective bargaining
32 procedure described in subparagraph (B), and a majority of that
33 particular employer's workers within the identified unit had
34 submitted valid cards indicating their intent to be represented by
35 the union, the board shall certify the union as the collective
36 bargaining agent of those workers and shall issue an order to begin
37 good faith negotiations for employment agreements on an
38 individual employer basis. If less than a majority of the opting-out
39 employer's workers within the identified unit had submitted valid
40 cards indicating their intent to be represented by the union, that



1 employer shall not be subject to a bargaining order issued by the
2 board, but may voluntarily agree to negotiate collectively with the
3 union if it so desires, and an organizing union may continue to seek
4 and submit employee authorization cards on an individual
5 employer basis for purposes of recognition and mandatory
6 negotiation under this subparagraph until the expiration of the one
7 year period identified in subparagraph (A). The board may provide
8 mediation and conciliation services upon request of the parties at
9 any time. If an employer is required under this subparagraph to
10 collectively bargain with the union, and the parties do not reach an
11 agreement within 90 days, the board shall require the parties to
12 participate in mandatory mediation and conciliation services for a
13 period of 30 days. If no agreement results from this mediation,
14 either or both parties may declare an impasse. Upon a party's
15 declaration of an impasse, the Executive Director of the Board
16 shall appoint an arbitrator from a panel of preselected professional
17 arbitrators with expertise in labor negotiations to determine the
18 issues and issue a final and binding order establishing the terms of
19 a collective bargaining agreement. The cost of this arbitration shall
20 be shared equally by the union and employer.

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

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



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

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

39 19455.2. (a) The board shall provide for labor agreements
40 under this article to be binding upon every applicable licensee.



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

4 19455.4. The board may establish reasonable rules to regulate
5 the time, place, and manner for representatives of labor unions to
6 meet backstretch workers within the enclosure during working and
7 nonworking hours. With the approval of the board, these
8 regulations may be superceded by collective bargaining
9 agreements between horsemen's organizations or trainers'
10 organizations and labor organizations.

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

13 19461. Every license granted under this chapter is subject to
14 suspension or revocation by the board in any case where the board
15 has reason to believe that any condition regarding it has not been
16 complied with, or that any law, including the Labor Code and the
17 regulations adopted thereunder, or any rule or regulation of the
18 board affecting it has been broken or violated.

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

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

24 19461.5. Upon a finding by the Labor Commissioner that a
25 violation of any provision of the Labor Code, within the
26 jurisdiction of the Labor Commissioner, has been committed by a
27 person licensed pursuant to this chapter in the course of such
28 licensed activity, the Labor Commissioner shall, upon expiration
29 of the applicable period for appeal, notify the board of that finding.

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

32 19481.5. (a) Notwithstanding any other provision of law, no
33 license shall be issued to conduct a horse racing meeting upon a
34 track unless the track has been inspected by the board within 30
35 days prior to the date of application for a license and the track has
36 been approved by the board as conforming to the racetrack safety
37 standards set forth in subdivision (a) of Section 19481.

38 (b) The board shall, within 120 days of the effective date of this
39 subdivision, adopt emergency regulations in accordance with the
40 Administrative Procedure Act (Chapter 3.5 (commencing with



1 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
2 Code) to establish standards governing the employee housing
3 provided to backstretch personnel at licensed racetracks. These
4 regulations shall be deemed to be an emergency and necessary for
5 the immediate preservation of the public peace, health and safety,
6 or general welfare, shall be commensurate with the housing
7 standards established in the Employee Housing Act (commencing
8 with Section 17000 of Division 13 of the Health and Safety Code),
9 and shall consider the following:

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

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

20 (3) Compliance of facilities with racing meetings of 19 days or
21 less to this subdivision shall be contingent on funding in the
22 2002–03 Budget Act.

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

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



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

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

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

12 (1) That the information contained in the payroll record is true
13 and correct.

14 (2) That the employer has complied with the requirements of
15 Labor Code and applicable wage orders of the Industrial Welfare
16 Commission.

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

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

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

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

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

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

39 (e) The trainer shall inform the board of the location of the
40 records enumerated under subdivision (a), including the street



1 address, city and county, and shall, within five working days,
2 provide a notice of a change of location and address.

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

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

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

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

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

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

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

37 (3) Engaged in charitable, benevolent, civic, religious,
38 educational, or veterans' work similar to that of agencies
39 recognized by an organized community chest in the State of



1 California, except that the funds so distributed may be used by the
2 beneficiary for capital expenditures.

3 (4) Approved by the board.

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

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

14 19613.8. Within 60 days of a statewide majority of
15 backstretch workers having chosen to be represented by an
16 exclusive collective bargaining agent pursuant to Article 2.5
17 (commencing with Section 19455) or any other law, the respective
18 organization of horsemen, or in the case of the thoroughbred
19 industry the organization of trainers, shall submit a plan to the
20 board for the administration of the pension program by a joint
21 labor-management committee, consistent with the standards
22 established by Section 302 of the Taft-Hartley Act (29 U.S.C. Sec.
23 5186). Notwithstanding Section 19613, upon approval by the
24 board, a joint labor-management committee shall administer the
25 pension program.

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

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

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



1 (c) On or before March 1, 2002, the welfare fund board shall
2 be expanded to include two additional holders of groom or stable
3 employee licenses who are currently employed in these
4 occupations at a California horse racing facility. Within 60 days of
5 a statewide majority of backstretch workers having chosen to be
6 represented by an exclusive bargaining agent pursuant to Article
7 2.5 (commencing with Section 19455) or any other law, that agent
8 shall designate two representatives to replace the board members
9 appointed pursuant to this subdivision.

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

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

20 SEC. 10. No reimbursement is required by this act pursuant
21 to Section 6 of Article XIII B of the California Constitution
22 because the only costs that may be incurred by a local agency or
23 school district will be incurred because this act creates a new crime
24 or infraction, eliminates a crime or infraction, or changes the
25 penalty for a crime or infraction, within the meaning of Section
26 17556 of the Government Code, or changes the definition of a
27 crime within the meaning of Section 6 of Article XIII B of the
28 California Constitution.

