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OPINION

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THE CALIFORNIA HORSE RACING BOARD has requested an opinion on the following question:

May the California Horse Racing Board allocate racing dates in the southern zone for harness racing in excess of 10 weeks for 1981?

CONCLUSION

The California Horse Racing Board may allocate racing dates in the southern zone for harness racing in excess of 10 weeks for 1981, if such excess is caused by the overall revision of the schedule for horse race meetings throughout the state made necessary by the 1980 legislative amendments to Business and Professions Code sections 15931 and 15932.

ANALYSIS

The California Constitution authorizes the Legislature to “provide for the regulation of horse races and horse race meetings and wagering on the results.” (Cal. Const., art. IV, § 19, subd. (b).) Pursuant to this constitutional grant of authority, the Legislature has enacted a comprehensive statutory scheme (Bus. & Prof. Code §§ 19400–19667)¹ known as the Horse Racing Law. (§ 19400.)

The objectives of the legislation are stated in section 19401 as follows:

“The intent of this chapter is to allow parimutuel wagering on horseraces, while:

“(a) Assuring protection of the public;

“(b) Encouraging agriculture and the breeding of horses in the state;
and

“(c) Generating public revenues.

“(d) Providing for maximum expansion of horseracing opportunities in the public interest.

“(e) Providing uniformity of regulation for each type of horseracing.”

The Legislature has delegated to the California Horse Racing Board (“Board”) the responsibility for supervising the operations of horse race meetings (§ 19420), licensing the association track operators (§§ 19480–19497) and other personnel connected with the racing of horses. (§§ 19510–19517.) Because of the Board’s licensing powers, “racing associations have a quasi-monopoly and . . . the number of tracks in operation at any time is severely limited.” (*Greenberg v. Hollywood Turf Club* (1970) 7 Cal. 3d 968, 976.)

The question presented for analysis concerns whether the Board has authority to allocate racing dates for 1981 in excess of the specific statutory maximum number of weeks established by the Legislature in sections 19531 and 19532. We conclude that, while the Board has been granted authority to exceed the specified limits for 1981, such authority is limited to implementing the 1980 legislative amendments to the two statutes in question.

¹All section references hereafter are to the Business and Professions Code.

Analysis of the issue begins with the general provisions of section 19530, which states:

“The board shall have the authority to allocate racing weeks to an applicant or applicants pursuant to the provisions of this article and Article 6.5 (commencing with Section 19540) and to specify such racing days, dates, and horses for horseracing meetings as will be in the public interest, and will subserve the purposes of this chapter. The decision of the board as to such racing days, dates, and hours shall be subject to change, limitation or restriction only by the board. No municipality or county shall adopt or enforce any of finance or regulation which has or may have the effect of directly or indirectly regulating, limiting or restricting the racing days and dates of horseracing meetings.” (Italics added.)²

The applicable “provisions of this article” are sections 19531 and 19532. Section 19531 states:

“The board shall make such allocations of racing weeks, including such simultaneous racing between zones, as it deems appropriate. The maximum number of racing weeks which may be allocated for horseracing other than at the California Exposition and State Fair, or county or district agricultural association fairs, shall be as follows:

“(a) For thoroughbred racing: 40 weeks per year in the northern zone; 42 weeks per year in the central zone; and seven weeks per year in the southern zone.

“(b) For harness racing: 15 weeks per year in the northern zone; 15 weeks per year in the central zone; and 10 weeks per year in the southern zone.

“(c) For quarter horse racing: 15 weeks per year in the northern zone; and 25 weeks per year in the southern zone.

“(d) In its written application for a license, an applicant shall state the time of day (subject to Section 19571) during which it will conduct its racing meeting, and particularly the first race starting time for the various racing days. After receiving a license, a licensee shall not change such first race

²Article 6.5 concerns racing at fairs and expositions and its provisions are not in question.

starting time without securing prior approval of the board.

“(e) Notwithstanding this section or any provision to the contrary contained in this chapter, the board shall not allocate dates to an association in the central zone for the purpose of conducting racing during daytime hours if a thoroughbred racing association is conducting racing in the southern zone on the same date during daytime hours.” (Italics added.)³

Section 19532 provides:

“(a) Any association licensed to conduct thoroughbred racing in the northern zone may receive no more than 16 weeks of such racing.

“(b) Any association licensed to conduct thoroughbred racing in the central zone may receive no more than 17 weeks of such racing, except that any association conducting a split meeting may receive up to 20 weeks of such racing. No more than one such split meeting may be licensed in any one year.

“(c) Any association licensed to conduct quarter horse racing in the southern zone may receive no more than 13 weeks of such racing.

“(d) This section and Section 19331 shall not operate to deprive any association of any weeks of racing granted during 1980.

“(e) This section and Section 19331 shall not operate to deprive the California State Fair and Exposition of any weeks of racing granted during the previous calendar year, and the board may continue to allocate such weeks of racing to the California Exposition and State Fair or any lessee thereof.

“(f) Nothing in subdivision (e) shall be construed as a limitation on the board allocating racing weeks to any private racing association as a lessee of the California Exposition and State Fair racetrack facility pursuant to Sections 19531 and 19532.

“(g) *For the purpose of implementing this section and Section 19531, the board may allocate racing dates for 1981 in excess of the statutory*

³The southern zone consists of Imperial, Orange, Riverside, and San Diego, Counties. (§ 19530.5.)

maximums established in those sections.” (Italics added.)

Under the plain language of subdivision (g) of section 19532, it is clear that the Board has been given authority to exceed the racing date limitations of sections 19531 and 19532 for the single year of 1981. This would include the 10 weeks limitation for harness racing in the southern zone contained in subdivision (b) of section 19531. We are informed that the Board has allocated the 10 weeks in the southern zone and that such allocation has already been utilized for the year. The specific issue we must resolve is whether additional weeks may now be allocated by the Board to a different racing facility in the southern zone.

The principles of statutory construction governing our interpretation of subdivision (g) of section 19532 may be summarized as follows: (1) the fundamental rule is to “ ‘ascertain the intent of the Legislature so as to effectuate the purpose of the law’ ” (*California Teachers Assn. v. San Diego Community College Dist.* (1981) 28 Cal. 3d 692, 698), (2) every word and phrase of a statute should be accorded significance (*Pacific Legal Foundation v. Unemployment Ins. Appeals Bd.* (1981) 29 Cal. 3d 101, 114), (3) constructions that defy common sense or lead to mischief or absurdity are to be avoided (*Fields v. Eu* (1976) 18 Cal. 3d 322, 328), and (4) “The legislative history of the statute and the wider historical circumstances of its enactment are legitimate aids in divining the statutory purpose.” (*California Mfgs. Assn. v. Public Utilities Com.* (1979) 24 Cal. 3d 836, 844.)

Applying these principles, we note that subdivision (g) was added to section 19532 at the same time the racing date limitations contained in sections 19531 and 19532 were changed by the Legislature. (Stats. 1980, ch. 1043.) As stated in the Legislative Counsel’s Digest explaining the legislation:

“This bill would increase the number of racing weeks that may be allocated for thoroughbred racing in the northern zone from 33 to 40 weeks and for thoroughbred racing in the central and southern zones from 41 weeks to 42 weeks in the central zone and 7 weeks in the southern zone. The bill would increase the number of weeks that may be allocated for harness racing in the southern zone from 9 weeks to 10 weeks and for quarter horse racing in the southern zone from 22 weeks to 25 weeks. The bill would authorize the board to make such allocations of racing weeks, including simultaneous racing between zones, as it deems appropriate. . . .

“

“This bill would increase the number of weeks that may be allocated to an association for thoroughbred racing in the northern zone from 11 weeks to 16 weeks and for thoroughbred racing in the central zone from 15 weeks to 17 weeks and delete any limitation on allocation of thoroughbred racing in the southern zone, except that any association conducting a split meeting may receive up to 20 weeks. The bill would delete the limitation on the maximum number of weeks that may be allocated to an association for harness racing. The bill would increase the number of weeks that may be allocated to an association for quarter horse racing in the southern zone from 13 weeks to 15 weeks. The board would be authorized to allocate racing dates in excess of the statutory maximums during 1981 in order to implement the provisions of Section 19531 and 19532 of the Business and Professions Code.” (See stats. 1980, ch. 1043, §§ 10, 11; stats. 1978, ch. 129, § 2; stats. 1971, ch. 1959, § 4.)

Hence, the length and sequence of race meetings for 1981 have been the subject of revision by the Board in order to reflect the legislative changes made to the governing statutes in 1980. 1981 has been in effect a year of transition, with commitments previously made by the Board coalescing with the new statutory allocations. Understandably in such circumstances, the Legislature would allow the Board to “allocate racing dates for 1981 in excess of the statutory maximums established in [sections 19531 and 19532].”

Subdivision (g) of section 19532 also specifies, however, that any allocations in excess of the statutory maximums be “[f]or the purpose of implementing this section and Section 19531” We view this language as controlling the otherwise unfettered discretion of the Board. It reflects the existence of the legislative amendments to sections 19531 and 19532 in 1980 and their impact upon the 1980 racing calendar. It is only in furtherance of realigning the calendar, therefore, that the Board may exceed the statutory maximums. Allowing one racing facility, for example, to triple its racing dates solely for the one year with no reference to the revision of the racing calendar caused by the legislative amendments would exceed the purpose and scope of the enabling statutory language.⁴

⁴We believe that here the Legislature has provided the Board with sufficient directive concerning the implementation of a “declared policy” to as not to constitute an unlawful delegation of authority. (See Cal. Const., art. IV, § 1, *Taylor v. Crane* (1979) 24 Cal. 3d 442, 452–453; *People ex rel Younger v. County of El Dorado* (1970) 5 Cal. 3d 480, 507; *Kugler v. Yocum* (1968) 69 Cal. 2d 371, 375–377.)

The manner in which the Board should act in any particular case is a matter of exercising sound administrative discretion. It must determine whether exceeding the statutory maximums of sections 19531 and 19532 for 1981 would be warranted as part of an overall scheme to revise the racing calendar based upon the legislative changes made in 1980. The facts underlying each application must be viewed in light of this consideration.

We thus conclude that the Board may allocate racing dates in the southern zone for harness racing in excess of 10 weeks for 1981, if such excess is caused by the overall revision of the schedule for horse race meetings throughout the state made necessary by the 1980 legislative amendments to sections 19531 and 19532.
