



# THE STATE BAR OF CALIFORNIA

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Date: December 4, 2009

**Item IV.A**

To: Members, Board Operations Committee

From: Staff

Re: 2010 Board Election

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## **Executive Summary**

This memorandum is to advise the Board Operations Committee that staff proposes, absent objection by the Board of Governors, to conduct the 2010 Board Election as a “Hybrid.”

On March 25, 2009, the California Supreme Court adopted new Rule 9.7 of the California Rules of Court, effective February 1, 2010. Rule 9.7 requires that members provide email addresses to facilitate communications by the State Bar with its members. Adoption of Rule 9.7 facilitates the move to a “Hybrid” Board election because emails will be available for the membership. Additionally, the State Bar’s current contract with VR Elections Services requires that the vendor be able to conduct an internet election in lieu of a paper ballot election if the State Bar so wishes.

The “Hybrid” Election uses a combination of voting by mail ballot and by the Internet. A ballot packet is mailed to all members of record. The ballot packet is similar to the one currently used by the State Bar and includes a ballot, instructions, candidate statements, a unique voter PIN number printed on the ballot, and a return mail ballot envelope.

### **1. Current Practice:**

#### **A. Election Packet/Ballots**

1. The vendor mails ballot packets to all eligible voters in each contested district. The ballot packet includes an outgoing envelope, ballot, secrecy envelope, return envelope, and biographical statements.
2. Signature of Voter. A signature line on the return envelope is concealed under the flap. The eligible voter must legibly print his or her name, address, membership number, and sign in ink in the designated area or the ballot will not be tabulated.

## **B. Delivery of Ballots**

1. Ballots are deposited for delivery with the U. S. Post Office so they are postmarked with a date no later than April 30 for the 2010 election.

## **C. Collection, Counting, Data Entry, Ballot Canvassing & Results**

1. Counting. On a specified date, the vendor counts and batches returned ballots by district. Voided ballots and questionable ballots are counted and batched and provided to the State Bar for review by the canvassing board.
2. Canvassing. Vendor tabulates votes for each candidate. Pursuant to statutory requirements, canvassing of all votes may be performed at the Contractor's facility, or the San Francisco offices of the State Bar
3. Report of Vote. The Vendor reports results of canvassing and counting to the Secretary of the State Bar of California, or her designee, no later than July 9 for the 2010 election.

## **2. Proposed "Hybrid" Election (Based on Texas Bar Election which is conducted by our current vendor)**

### **A. Election Packet/Ballots**

1. The "Hybrid" Election uses a combination of voting by mail ballot and by the Internet. A ballot packet is mailed to all members of record. The ballot packet is similar to the one currently used by the State Bar and includes a ballot, instructions, candidate statements, a unique voter PIN number printed on the ballot, and a return mail ballot envelope.

### **B. Delivery of Ballots**

1. Ballots are deposited for delivery with the U. S. Post Office so they are postmarked with a date no later than April 30 for the 2010 election.
2. Upon receipt of the ballot packet, members may vote using the mail ballot or by Internet with their member number (blind information - not printed on the ballot) and the voter PIN number printed on the ballot. The combination of these two numbers permits members to vote in their district election. The candidates' statements are accessed via a "pop-up" that appears when voters click on the candidates' names. Write in candidates are also supported on the Internet.
3. At the conclusion of the voting session, a ballot confirmation page is displayed that allows the member to review their choices before confirming their selections.

#### D. Collection, Counting, Data Entry, Ballot Canvassing, Recounts, & Certifying Results

1. Counting. The vendor processes ballots daily. Voided ballots and questionable ballots are counted and batched and provided to the State Bar for review by the canvassing board.
2. Canvassing. Vendor tabulates votes for each candidate. Pursuant to statutory requirements, canvassing of all votes may be performed at the Contractor's facility, or the San Francisco offices of the State Bar
3. Report of Vote. The Vendor reports results of canvassing and counting to the Secretary of the State Bar of California, or her designee, no later than 3:00 p.m. on July 9 for the 2010 election.

Voter turnout increased from 22.34% in 2007 (the first year Texas used Internet voting) to 24.51% in 2008. The State Bar's turnout is between 13% - 19%.

<b>Schedule of Dates &amp; Deadlines</b>	<b>2010</b>	<b>2011</b>
Nominating petitions available	2/1/2010	2/1/2011
Last day to file nominating petitions	4/1/2010	4/1/2011
Last day to withdraw nomination	4/12/2010	4/11/2011
Eligibility list closes	4/20/2010	4/20/2011
Ballots mailed	4/30/2010	5/2/2011
Last day for voting	6/30/2010	6/30/2011
Canvass of ballots	7/6 - 9/2010	7/6 - 1/2011
Annual Meeting	9/23 - 26/2010	9/15 - 18/2011

#### ADMINISTRATIVE ENHANCEMENTS

- **Process ballots daily** - Allows for results to be available the day following the close of election. The State Bar's Canvassing Board may still review all processed ballots versus hard copy printouts for verification. If we choose to add Internet voting the ballots are tabulated real time and a hard copy printout of all votes by ballot control number (no member identify is revealed) and candidate selections is available for verification. This also allows for a more accurate "non-voted list" for candidates that request this service during the election.
- **Candidates Statements** – Conceivably, online candidates' statements may be longer because mailing costs would be a factor.

## **FISCAL AND PERSONNEL IMPACT**

Our current contract requires the vendor to be able to conduct either a mail ballot or electronic election. There is no difference in cost. Our contract runs through the 2011 Board Election

- 95,388 ballots were mailed for this year's Board of Governors election
- **No secret ballot envelope** – Because we use a neutral, 3rd party election services company to conduct the BOG election, no State Bar staff member is aware of how a member votes. Originally, secret ballot envelopes were used in organizations that conducted their own elections using their own staff members to tabulate the election. This prevented staff members/interested parties from knowing how a member voted.

Voids created when members did not use the secret ballot envelope:

- ✓ 17 Voids 2008
- ✓ 13 Voids 2007
- ✓ 17 Voids 2006

The reduction in cost of not using the secret ballot envelope would offset most of the cost of adding Internet voting which may increase voter turnout.

## **BOARD BOOK IMPACT /ADMINISTRATIVE MANUAL IMPACT**

None

## **STATE BAR RULES IMPACT**

Title 6, Chapter 1, Rule 6.4 (B) requires that the outside of the return envelope include the voting member's printed name, address and signature. For electronic voting it allows for a secure means that complies with the requirements of the rules.

In future, a minor amendment to Rule 6.4 (B) could be in order if the State Bar chose to eliminate mail ballots and conduct only electronic voting.