

AGENDA ITEM

SEPT 113

DATE: September 16, 2011

TO: Members, Board Committee on Operations
Members, Board of Governors

FROM: Joseph Dunn, Executive Director
Robert Hawley, Deputy Executive Director

SUBJECT: Labor/Management MOU Negotiations
Report on Negotiations Re: 2011 MOU Amendments
Proposed Ratification

EXECUTIVE SUMMARY

The State Bar and Union bargaining teams have completed negotiations on potential amendments to the Memoranda of Understanding ("MOU's") for the Attorney and General Bargaining Units to be effective in 2011 and after. Tentative agreement has been reached between the bargaining teams. The proposed terms are reported here for Board ratification. The Union is presenting these terms to the Union membership for ratification. The ratification sought here by the Board is contingent upon the Union membership fully ratifying the proposed amendments. If, for any reason, the Union does not ratify, the Board's ratification will be instantly rendered void. State Bar management recommends ratification. To expedite consideration of this item at the meeting, if anyone wishes a more detailed explanation of the amendments or the negotiating process, please contact Robert Hawley at (415) 538-2277, Robert.Hawley@calbar.ca.gov.

BACKGROUND

The employees of the State Bar of California have been represented by Service Employees International Union ("SEIU") since 1980. The State Bar is a public entity subject to the jurisdiction of California's Meyers-Milias-Brown Act ("MMBA"), Government Code sections 3500 *et seq.*, for labor relations purposes. The MMBA governs "miscellaneous" public entities such as water districts, community college districts, and redevelopment agencies.

The State Bar's union employees are divided into two separate bargaining units: the Attorney Unit and the General Unit. State Bar Executive Staff and designated Confidential Employees are not represented by the Union. Their terms and conditions

of employment are established by the Rules & Regulations Pertaining to the Employment of Executive Staff Employees and the Rules & Regulations Pertaining to the Employment of Confidential Employees adopted by the Board of Governors and administered by the Executive Director. Office of Human Resources and Office of General Counsel employees are among the non-union Confidential Employees.

SEIU Local 1000 serves as the designated and exclusive representative of bargaining unit employees at the State Bar. Local 1000 represents California state employees.

Negotiations on the 2011 MOUs began in March 2011. The MOU's expired December 31, 2009, without agreement being reached on successor agreements. The State Bar had been working without MOU terms in place since January 1, 2009. It was agreed in March that the MOU's would be re-established through July 31, 2011, to facilitate the bargaining process. This had no economic impact. Negotiations continued through August 30, 2011, when tentative agreement was reached on the terms set forth here.

The terms upon which ratification is sought are set forth in the attached Executive Summary. The actual contract language will be prepared following ratification, should that occur.

Management is satisfied that the proposed amendments assure that the Board's institutional goals for the State Bar can be achieved through the prudent management of State Bar's resources and personnel.

DISCUSSION

It is a responsibility of the Board and its Board Operations Committee to set prudent policy standards pertaining to employer-employee relations. Pursuant to Rules 6.8 and 6.9 of the Rules & Regulations for the Administration of Employer-Employee Relations (Employee Relations Rules), this includes providing policy guidance to management for the MOU negotiations and ratifying successor MOUs. It is the responsibility of the Executive Director to manage personnel prudently and of his designees to conduct the negotiations in accordance with the fiscal policy and budget determinations set by the Board. The terms presented here are in accord with these principles.

Rules 6.8 and 6.9 of the Employee Relations Rules provide that all Memoranda of Understanding ("MOUs") be submitted to the Board of Governors for ratification. The State Bar and Union bargaining teams have reached tentative agreement on the terms described here and each side is recommending ratification to their respective constituencies. The tentative agreement is presented here to the Board Operations Committee, which oversees the negotiations, and the Board of Governors. The Board's ratification of these terms is expressly made contingent upon the Union membership following the recommendation of the Union bargaining team and ratifying these terms on the Union's side.

The proposed MOU amendments are summarized in the attached Executive Summary. The actual MOU amendments will be drafted and approved by the Office of General Counsel and the Office of the Executive Director/Secretary consistent with the proposed resolution above.

CONCLUSION

Assuming the Board Operations Committee and the Board of Governors support settlement of the negotiations on the terms presented here, it is recommended that the above resolution be adopted.

FISCAL / PERSONNEL IMPACT:

Operationally, State Bar management is pleased to obtain the terms presented here. The personnel impact supports prudent management of the State Bar with long term labor stability. The fiscal impact is within budget parameters.

RULE AMENDMENTS:

None

BOARD BOOK IMPACT:

None

RECOMMENDATION

State Bar management recommends ratification as these terms are consistent with prudent personnel administration standards and are within budgetary parameters.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Board Committee on Operations agree with the above recommendation, the following resolution is appropriate:

"WHEREAS, representatives of the State Bar of California ("State Bar") and Service Employees International Union (SEIU) Local 1000, operating under a Service Agreement with SEIU Local 535 ("Union"), met and conferred pursuant to California Government Code sections 3505 and 3505.1 and the State Bar's Rules & Regulations for the Administration of Employer-Employee Relations, with a view to reaching agreement on the Memoranda of Understanding (MOUs) for the General and Attorney Bargaining Units to be effective in 2011 and after; and

WHEREAS, the Union and State Bar bargaining teams have met in good faith and reached tentative agreement on MOU terms to be effective in 2011 and after; and

WHEREAS, the Union is presenting the tentative agreement to its membership with a recommendation that it be ratified; and

WHEREAS, the State Bar's Rules and Regulations for the Administration of Employer-Employee Relations provides at Sections 6.8 and 6.9 that the proposed MOU terms be submitted to the Board of Governors for ratification; now therefore, it is

RESOLVED, that the Board Committee on Operations recommends that the Board of Governors ratify the proposed Memoranda of Understanding amendments for the General and Attorney Bargaining Units in the form discussed this date to be effective upon full ratification of the amendments by both the Board and the Union; and it is

FURTHER RESOLVED that the Board's action here is contingent upon the Union fully ratifying the tentative agreement in the same form as presented here. The Board action here does not become effective until the Union confirms that its membership has fully ratified the tentative agreement as set forth here. If, for any reason, Union ratification does not occur, the action of the Board here is voided. The Board further reserves the right to withdraw this action at any time prior to Union ratification; and it is

FURTHER RESOLVED that the Office of General Counsel and the Office of the Executive Director take the appropriate steps to effectuate these amendments.

PROPOSED BOARD RESOLUTION:

Should the Board concur with the Board Committee on Operations's recommendation, the following resolutions are in order:

"WHEREAS, representatives of the State Bar of California ("State Bar") and Service Employees International Union (SEIU) Local 1000, operating under a Service Agreement with SEIU Local 535 ("Union"), met and conferred pursuant to California Government Code sections 3505 and 3505.1 and the State Bar's Rules & Regulations for the Administration of Employer-Employee Relations, with a view to reaching agreement on the Memoranda of Understanding (MOUs) for the General and Attorney Bargaining Units to be effective in 2011 and after; and

WHEREAS, the Union and State Bar bargaining teams have met in good faith and reached tentative agreement on MOU terms to be effective in 2011 and after; and

WHEREAS, the Union is presenting the tentative agreement to its membership with a recommendation that it be ratified; and

WHEREAS, the State Bar's Rules and Regulations for the Administration of Employer-Employee Relations provides at Sections 6.8 and 6.9 that the proposed MOU terms be submitted to the Board of Governors for ratification; now therefore, it is

RESOLVED that upon the recommendation of the Board Committee on Operations, the Board of Governors ratifies the proposed Memoranda of Understanding amendments for the General and Attorney Bargaining Units in the form discussed this date to be effective upon full ratification of the amendments by both the Board and the Union; and it is ; and it is

FURTHER RESOLVED that the Board's action here is contingent upon the Union fully ratifying the tentative agreement in the same form as presented here. The Board action here does not become effective until the Union confirms that its membership has fully ratified the tentative agreement as set forth here. If, for any reason, Union ratification does not occur, the action of the Board here is voided. The Board further reserves the right to withdraw this action at any time prior to Union ratification; and it is

FURTHER RESOLVED that the Office of General Counsel and the Office of the Executive Director take the appropriate steps to effectuate these amendments.

**Proposed Amendments General and Attorney Unit
Memorandum of Understanding
2011 and after**

Executive Summary

Compensation: Bargaining Unit employees receive a one-time lump sum payment in 2011 of 5%. This payment is a one-time, non-compounding cash payment calculated on base salaries that have not been adjusted since 2008. Employees receive a similar one-time lump sum payment in July 2012 of 3%. In-base salary (5%) steps are reinstated for employees who are within the salary ranges (not yet at the maximum point of the range) in 2013. Movement through the ranges continues thereafter at 5% steps until the maximum of the range is reached. The 2013 salary step is the first in-base salary adjustment employees will have received in four years (no in-base adjustments 2009-2012).

In-base 5% steps continue after 2013 until the maximum of the range is reached unless: (1) there is a Gubernatorial fee bill veto or 2) the Legislature approves a fee bill that is below the total amount of the fee dedicated by statute to the State Bar's General Fund in 2011. That 2011 General Fund fee amount was \$320.00. Should either of these events occur so as to affect State Bar General Fund funding for 2014 and after, the continuation of steps in 2014 and after is frozen and the State Bar and the Union return to the bargaining table to address the status of ongoing step increases.

Term: The term of the MOU's will run from the date the Union and State Bar both fully ratify the terms in 2011, through December 31, 2013, with negotiations reopening in 2013 on two items selected by the Union. This gives the State Bar more than two years of labor stability.

Dress Standards: Standards governing the attire employees wear to work are established to assure professional attire is worn during business hours.

OCTC Time Tracking System: Standards for the development of a system to track the time OCTC attorneys, investigators, paralegals and complaint analysis spend on work by function are established with a six month implementation period for the reporting system.

Layoffs: In the event of an involuntary reduction in force at the State Bar during the term of the MOUs, the State Bar agrees to offer voluntary separation incentives and to pay severance pay to those actually laid off in accordance with the existing Separation Plan Letter of Understanding for Job Eliminations and Layoffs, Appendices F and G to the existing MOUs.

Alternative Work Schedules (AWS): The AWS program was suspended in OCTC in June 2011 due to work demands. That will continue through the end of the year. Employees may reapply for AWS program participation to be effective in 2012.

Transit Reimbursement Program: The IRS approved program that currently reimburses employee commute/transit expenses up to a maximum \$100/month, is raised to a maximum \$125/month. The maximum the IRS approves is \$240/month.