

AGENDA ITEM

NOV 144

DATE: October 18, 2011

TO: Members, Board Committee on Planning, Program Development and Budget;
Members, Board of Governors

FROM: Starr Babcock, General Counsel,
Mary Yen, Assistant General Counsel

SUBJECT: State Bar Rule changes to conform to Senate Bill 163

EXECUTIVE SUMMARY

Senate Bill 163 (2011 Statutes, Chapter 417) renames the Board of Governors of the State Bar as the Board of Trustees; changes the State Bar Districts, changes the composition and election of attorney members of the board; authorizes annual member fees for 2012; and mandates conforming changes to the State Bar Act. This memorandum recommends State Bar Rule changes to conform to specific changes in a law enacted by SB 163. No public comment is required for these changes.

Unlike the conforming changes proposed in this memorandum, public comment is required to implement other changes mandated by SB 163, in particular the sequence of electing attorney members of the board from six rather than nine districts. Changes in the Board's election rules that require public comment are the subject of a separate agenda item.

BACKGROUND

This memorandum recommends State Bar Rule changes to conform to specific changes in a law amended, added, or repealed by Senate Bill 163 (2011 Statutes, Chapter 417), effective January 1, 2012.

State Bar Rule 1.10 [Public comment] subpart (B)(1) provides that public comment is not required for changes to State Bar Rules that "correct clerical errors; clarify grammar; improve organization; conform to specific changes in a law; update references or citations; or make similar editorial changes." Changes identified in this agenda item fall within the parameters of subsection (B)(1).

DISCUSSION

Among other things, Senate Bill 163 renames the “Board of Governors” as “Board of Trustees” in the State Bar Act (Business and Professions Code §§ 6000-6238); changes the number of State Bar Districts to six based on the six court of appeal districts as they exist on December 31, 2011; repeals the periodic adjustment of State Bar Districts; provides for one elected attorney Board member from each of the six State Bar Districts; and eliminates the CYLA member on the Board.

Appendix A identifies the revised State Bar rule changes that conform to the changes in law described above.

The most obvious change shown on Appendix A is the replacement of “Board of Trustees” for “Board of Governors.” Note, however, that the replacement in the Board’s name is not being made at this time in rules that have not yet been revised. To indicate that the name change also applies to unrevised rules, the following sentence is recommended for addition to Rule 1.22(A) (definitions): “Any reference in these rules to ‘Board of Governors’ is deemed to mean ‘Board of Trustees’.” As rules are revised, they will be conformed to the change in the Board’s name. Appendix A shows Rule 1.22(A) with the added sentence.

With one exception, the texts of the rules identified in Appendix A do not include footnote citations in the current rules or the historical annotation that follows each rule. Footnote citations are retained and historical annotations will note the changes recommended here. For instance, the historical annotation for Rule 1.1 will read, “Rule 1.1 adopted effective July 20, 2007; amended effective January 1, 2012.” The exception is in State Bar Rule 6.2, nomination of trustees, where a footnote citation to Business and Professions Code section 6014 is deleted and a citation to section 6013.2 is added in accordance with SB 163. Appendix A shows Rule 6.2 with the citation change in the footnote.

Rule 6.30 (Composition) is revised to conform to the composition of the six new State Bar Districts. Finally, the following provisions in Title 6 are deleted: Rule 6.9 (California Young Lawyer Governor); Rule 6.31 (District adjustments); Rule 6.32 (Sequence of election of members after district adjustments)¹; and subpart (B) of Rule 6.2 (Nomination of trustees).

EFFECTIVE DATE OF PROPOSAL:

The changes identified in this memorandum and Appendix A will become effective January 1, 2012.

¹ A new rule for sequence of elected attorney members will be added by a separate agenda item, following public comment.

FISCAL / PERSONNEL IMPACT:

None.

BOARD BOOK IMPACT:

The changes recommended in this memorandum will have an impact throughout the Board Book.

RULES IMPACT:

As identified in Appendix A:

In the following rules, change “Board of Governors” to “Board of Trustees”: 1.1; 1.2; 1.10; 1.22; 2.17; 2.37; 3.53; 3.54; 3.55; 3.57; 3.240; 3.420; 3.421; 3.451; 3.660; 3.662; 4.10; 4.101; 4.201; 6.2; 6.3; 6.5; 6.8; 6.50; 6.54; 6.60; 6.64; 7.1; 7.2; 7.8; 7.20; 7.21; 7.22; 7.66.

Title 1, Division 3, Rule 1.22(A), add at the end: “Any reference in these rules to ‘Board of Governors’ is deemed to mean ‘Board of Trustees’.”

Title 6, Division 1, Chapter 1, in Rule 6.2 delete subpart (B), and delete Rule 6.9; Chapter 3, in Rule 6.30 change the composition of State Bar Districts, delete Rule 6.31, and delete Rule 6.32; and Division 2, Chapter 2, in Rule 6.60 add Rule 6.54(C) to the exceptions.

RECOMMENDATION:

It is recommended that the changes identified in Appendix A be adopted effective January 1, 2012.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Planning, Program Development and Budget Committee agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that no public comment being required, the Planning, Program Development and Budget Committee recommends that the Board of Governors adopt the changes identified in Appendix A to conform the Rules of the State Bar to specific changes in law enacted by Senate Bill 163 (2011 Statutes, Chapter 417), in the form attached, to be effective January 1, 2012.

PROPOSED BOARD RESOLUTION:

Should the Board concur with the Planning, Program Development and Budget Committee's recommendation, the following resolution would be in order:

RESOLVED, that no public comment being required and upon the recommendation of the Planning, Program Development and Budget Committee, the Board of Governors hereby adopts the changes identified in Appendix A to conform the Rules of the State Bar to specific changes in law enacted by Senate Bill 163 (2011 Statutes, Chapter 417) by changing "Board of Governors" to "Board of Trustees", in the form attached and made a part hereof, to be effective January 1, 2012.

Attachments

Appendix A: State Bar Rule changes to conform to changes in law enacted by SB 163