

AGENDA ITEM

II. B OCTOBER 2013

DATE: September 20, 2013

TO: Members, Board Committee on Operations

FROM: Mary Lavery Flynn
Director Office of Legal Services

SUBJECT: Proposed Amendment to State Bar Rule 2.15 re Fee Scaling for Employees of IOLTA Recipient Organizations – Request for Release for Public Comment

EXECUTIVE SUMMARY

State Bar Rule 2.15 (Scaling) now provides a 25% reduction in State Bar dues for certain active members who are employed on a continuous full-time basis by an organization that receives Legal Services Trust Fund grants and pays the member's bar dues.

This agenda item would amend and broaden the application of the 25% reduction to certain part time employees who have no other employment relating to the practice of law.

This memorandum requests that the committee authorize publication of the proposed revised rules for a thirty-day public comment period, beginning October 12th and ending November 11th.

BACKGROUND

Fee scaling is authorized by Business and Professions Code section 6141.1(b). State Bar rule 2.15 implements the statute.

Because of the chronic lack of funding facing legal services programs receiving funds from the Bar's Legal Services Trust Fund Program, the Bar adopted paragraph (b) of Rule 2.15 to help the programs by allowing them to scale the dues for those attorneys who were full time and for whom the nonprofit paid the dues. However, since many legal aid programs lack adequate funding to keep all their attorneys at a full-time level, the Office of Legal Services is proposing modifying the Rule so that it covered those attorneys employed by legal aid programs who are at least half-time and who do not have other employment relating to the practice of law.

ISSUE

Whether the State Bar should release for public comment a proposed amendment to Rule 2.15(b) to expand scaling of dues to cover those employees of Legal Services Trust Fund recipient programs who are not full time but who do not have other employment relating to the practice of law.

CONCLUSION

The modification of this Rule to cover legal services program attorneys who are working less than full-time, but are not otherwise engaged in the practice of law, is an appropriate extension of the Rule in keeping with the original intent of the Rule.

DISCUSSION

Beginning in the late 1980's, the Board allowed reduced membership dues for attorneys who worked with legal aid programs where the program paid the dues. This reduction seemed appropriate since the State Bar funded these legal aid programs and we were concerned about the chronic lack of funding faced by these nonprofits.

This step has been very much appreciated by legal aid programs over the years. However, with the recent downturn in the economy, many programs cut back some of their attorneys to part-time status. They were then faced with the anomalous situation where they could pay a reduced rate for their full time attorneys, but not for their attorneys who were working only 50% or 60%.

This proposal suggests a change to the wording of Rule 2.15(b). The proposed change would extend the reduced dues rate to attorneys who are working at least half-time for the legal aid program and the attorneys were not otherwise obtaining income from the practice of law.

Because of the minor nature of the proposed change and the fact that it is expected to be noncontroversial, the Bar's Office of Legal Services requests approval for this proposed change to be circulated for comment for 30 days. We will then bring back an item at the November meeting, in time for implementation for the 2014 dues year.

With the proposed amendment of paragraph (b), Rule 2.15 would read as follows:

Rule 2.15 Scaling

(A) An active member who has a total gross annual individual income from all sources of less than \$40,000 may request a 25% reduction of annual membership fees. The request must be submitted by the date set forth in the Schedule of Charges and Deadlines and include

(1) the Active Member Fee Scaling Declaration signed under penalty of perjury; and

(2) payment of the reduced fee.

New members admitted after May 31 do not qualify for scaling.

(B) An employer that receives State Bar Legal Services Trust Fund grants and is a qualified legal services project or qualified support center as defined by statute [Business & Professions Code § 6210 et seq.] may request a reduction of annual membership fees by 25% for an active member employed on a continuous full-time basis or an active member employed on at least a half-time basis who has no income from other employment related to the practice of law. The request must be submitted by the date set forth in the Schedule of Charges and of Deadlines and include

(1) the Qualified Employer Fee Scaling Declaration signed under penalty of perjury that the employer is qualified and pays annual membership fees on the member's behalf; and

(2) payment of the reduced fee.

(C) Members who scale are subject to audit and upon request must provide the State Bar with past federal and state income tax returns or other acceptable documentation of financial condition.

(D) If the State Bar determines that a member is ineligible to scale, the member must pay full annual membership fees and any late payment penalties.

(Rule 2.15 adopted effective June 17, 2006; amended effective July 20, 2007.)

FISCAL / PERSONNEL IMPACT:

None

RULE AMENDMENTS:

Rules of the State Bar, Title 2, Division 2, rule 2.15, as shown on Attachment A.

BOARD BOOK IMPACT:

None

RECOMMENDATION

Staff recommends that the Board Committee on Operations authorize the publication of the proposed rule amendments to Rule 2.15 (Scaling) for a thirty-day public comment period. If the committee agrees, adoption of the following resolution would be appropriate.

BOARD COMMITTEE RESOLUTION

RESOLVED, that the Board Committee on Operations authorizes for publication the proposed amendments to Rule 2.15 regarding scaling of dues, as set forth in Attachment A, for a thirty-day comment period from October 12, 2013 through November 11, 2013.

FURTHER RESOLVED, that this authorization to release for public comment is not, and is not to be construed as, an approval of the proposed amendments.

Attachments: Attachment A, State Bar Rule 2.15 with proposed amendment shown in legislative style