

# AGENDA ITEM

182 November 15 2013

**DATE:** November 4, 2013

**TO:** Members, Audit Committee  
Members, Board of Trustees

**FROM:** Peggy Van Horn

**SUBJECT:** Approval of Process to File the Annual Audited Financial Statements by the Audit Committee

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## EXECUTIVE SUMMARY

This agenda provides background information on the existing process and timeline involved in preparing the annual financial statements and submitting them to the Legislature and Supreme Court by the statutory deadline of April 30<sup>th</sup>. Staff seeks Committee and Board approval to adopt a new policy regarding the receipt and review of the annual financial statements.

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## BACKGROUND

Business and Professions Code Section 6145 requires the State Bar to undergo an annual financial statement audit by an accounting firm that meets certain qualifications. The audit is to be completed and submitted to the Legislature and Supreme Court before April 30<sup>th</sup> each year. The State Bar's fiscal year end is December 31<sup>st</sup>.

For many years, the Board of Trustees has held a special meeting in April to "receive and order filed the financial statement audit." This has been the practice even though there is no legislative requirement or Board policy requiring Board action. The only requirement in statute is for the Board Treasurer to certify transmission of the statements. There is also growing confusion among Board members as to what action is actually being taken. The vote is simply to receive – not to approve. The audited statements cannot be changed by the Board and must be submitted to the Legislature and Supreme Court by the deadline regardless of any Board action.

The current practice of having a Board meeting for the purpose of receiving and ordering staff to transmit the statements is becoming problematic because of time constraints imposed by the statutory deadline and the amount of time available to perform a thorough audit. The recently expanded public meeting rules that require a 10-day notice period is adding to the difficulty.

For example, meetings of the Audit Committee and Board of Trustees were scheduled on April 23<sup>rd</sup> of this year to vote to receive and order the 2012 financial statements to be filed. This was the only date in late April that a Board majority could be present and the statements were only in draft form on that date. There were a number of Trustees who were uncomfortable with taking action on draft statements without a presentation by the auditors. Because of the compressed time frame, there has never been an opportunity for the auditors to go over the audit in detail with the Board before the filing deadline. The auditors typically meet with the Audit Committee in May for this purpose.

## **ISSUE**

Should the Audit Committee and Board of Trustees approve a new process for receiving the audited financial statements before the statutory deadline?

## **CONCLUSION**

A new process could eliminate many of the problems that currently exist and clarify the responsibilities of the Audit Committee and Board of Trustees in transmitting the financial statements.

## **DISCUSSION**

The statutory deadline of April 29th allows only 120 days for staff to perform a preliminary close, receive and record invoices that come in after the December 31st year end, perform other year-end accruals and cost allocations, and prepare the statements. This process typically takes until mid-February. The draft statements are next released to the accounting firm which then has only ten weeks to complete the audit.

The primary problem with the timeframe allotted for the completion of the audit is finding a suitable time for the Audit Committee and Board to meet with the auditors and review the statements before the statutory deadline. Prior to the ten-day public notice requirement, the Board typically voted by fax to receive the audit. This could be done as late as the day before the filing deadline when the audit was complete. The auditors would then meet with the Audit Committee at its May meeting to give a thorough presentation of the statements and answer questions.

To streamline and clarify the process, staff recommends that the Audit Committee receive and order staff to submit the statements, eliminating the need for a meeting of the full Board. The auditors would make a full presentation to the Audit Committee in May. This recommendation strikes a balance between ensuring an appropriate role for the Board in fiscal governance and the practical necessities imposed by the 120-day statutory deadline for submission of the audit to the Legislature and the Supreme Court.

**FISCAL / PERSONNEL IMPACT:**

None

**RULE AMENDMENTS:**

None

**BOARD BOOK IMPACT:**

None

**RECOMMENDATION**

On October 29<sup>th</sup>, the CFO met with Board Treasurer and Audit Committee Chair Heather Rosing and Trustee Michael Colantuono, Vice Chair to discuss this issue. Both agree that a streamlined process would strike an appropriate balance between protecting the Board's role in fiscal governance and the practical necessities imposed by the statutory 120-day deadline for audit submission.

**PROPOSED BOARD COMMITTEE RESOLUTION:**

Should the Audit Committee agree with the above recommendation, the following resolution would be appropriate:

**RESOLVED**, that the Audit Committee recommends a new process for receipt of the annual financial statements that eliminates the need for a meeting of the entire Board of Trustees. The Audit Committee will be authorized to review the draft financial statements and authorize staff to submit them to the Legislature and Supreme Court. The auditors will meet with the Audit Committee during its May meeting to provide detail information and answer questions. These actions will be reported to the Board on its consent agenda at the regularly scheduled May Board meeting.

**PROPOSED BOARD OF TRUSTEES RESOLUTION:**

Should the Board concur with the Audit Committee's recommendation, the following resolutions would be in order:

**RESOLVED**, that upon the recommendation of the Audit Committee, that the Audit Committee is authorized to review the draft financial statements and direct staff to submit them to the Legislature and Supreme Court. The auditors will meet with the Audit Committee during its May meeting to provide detail information and answer questions. These actions will be reported to the Board on its consent agenda at its regularly scheduled May meeting.