

AGENDA ITEM

NAC III. A.

DATE: April 17, 2014

TO: Members, Nominations and Appointments Committee

FROM: Adrian Dollard, Co-Chair, Legal Serv. Trust Fund Commission
Donna Hershkowitz, Co-Chair, Legal Serv. Trust Fund Commission
Stephanie Choy, Managing Director, Legal Serv. Trust Fund Program

SUBJECT: Proposed Amendment to Legal Services Trust Fund Commission Rule 3.662(A) and Request for Public Comment

EXECUTIVE SUMMARY

The Commission is responsible for oversight of approximately \$30 million in legal aid grants to almost 100 legal aid organizations in California. While the sources of funding are varied (Interest on Lawyers' Trust Accounts, Equal Access Funds, donor contributions, cy pres, and other State Bar funds), all funding is currently distributed under a complicated statutory structure, and the work of the Commission is often very technical.

Currently, Commission members are limited to a term of three years, with the possibility of extending the term an additional fourth or fifth year to serve as officer. Members of the Commission have long agreed that there is a steep learning curve to becoming familiar with the work of the Commission, and that members term out just when they are beginning to feel comfortable with their role on the Commission. The Commission therefore now seeks Board Committee approval to circulate for public comment a proposed amendment to State Bar Rule 3.662(A), to extend Trust Fund Commission term limits to two consecutive three-year terms, with the possibility of extending either term by an additional seventh or eighth year to serve as Chair or Vice Chair (see Attachment A).

BACKGROUND / ISSUE:

There are 21 members and three judicial advisors on the Legal Services Trust Fund Commission. As Chair of the Judicial Council, the Chief Justice appoints seven members and three judicial advisors; the State Bar appoints 14 members, including ten attorney members and four public members. Currently, State Bar appointments are limited to a term of three years, with the possibility of extending the term an additional fourth or fifth year to serve as officer.

Under the current Rules, by the time Commission members feel comfortable with difficult grant decisions, their terms are over, to the frustration of both the outgoing Commission members and the remaining Commission members who are relying on their experience. Therefore, upon recommendation of the Nominations Committee, at its meeting on March 11, 2014, the Commission approved requesting the Board amend State Bar Rules to extend Commission term limits by one additional term, with the possibility of extending either term by an additional one or two years to serve as Chair or Vice Chair. This rule change would only apply to the State Bar appointments.

Whether or not a Commission member is recommended by the Commission to the Board for reappointment will still be based on a number of factors, including the expertise, qualifications, contributions of the member, as well as diversity factors.

CONCLUSION:

This request is for approval to send out for public comment the amended State Bar Rule 3.662(A) in the form attached hereto as Attachment A, which allows Commission members to serve two consecutive three-year terms, with the possibility of extending either the initial or second term by an additional one or two years to serve as Chair or Vice Chair. A redline version of the proposed changes is found at Attachment B.

LENGTH:

The Commission requests a thirty-day public comment period commencing on May 12 and ending on June 10. If the Board of Trustees ultimately approves the amendment to the rules, it is anticipated the rule change would become effective with the Commission terms beginning at the close of the 2014 State Bar Annual Meeting, September 14, 2014.

FISCAL/PERSONNEL IMPACT:

None.

RULE AMENDMENTS:

Rules of the State Bar, Title 3, Division 5, Chapter 2, Rule 3.662(A).

BOARD BOOK IMPACT:

Tab 15, Article 7, Section 3

RECOMMENDATION:

The Legal Services Trust Fund Commission recommends the Board amend Rule 3.662(A) of the Rules of the State Bar, Title 3, Division 5, to change the maximum Commission term from *one* three-year term with extension for officers to *two* three-year terms with the same extension for officers. With the Committee's permission, the

proposed rule change would be posted for public comment, and following public comment, considered by the Committee and the Board in July.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Nominations and Appointments Committee agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Nominations and Appointments Committee authorizes staff to make available for public comment for a period of 30 days, the proposed revisions to the Rules of the State Bar, Title 3, Division 5, Chapter 2, Rule 3.662(A); and it is

FURTHER RESOLVED, that this authorization for release for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed item.

Attachment A - Proposed Amendment to State Bar Rule 3.662(A) to Extend Trust Fund Commission Term Limits to Two Consecutive Three-year Terms

Attachment B - Redlined Proposed Amendment to State Bar Rule 3.662(A) to Extend Trust Fund Commission Term Limits to Two Consecutive Three-year Terms