

AGENDA ITEM

151 JULY 18 2014

DATE: June 19, 2014

TO: Members, Nominations and Appointments Committee
Members, Board of Trustees

FROM: Adrian Dollard, Co-Chair, Legal Serv. Trust Fund Com.
Donna Hershkowitz, Co-Chair, Legal Serv. Trust Fund Com.
Stephanie Choy, Mng. Dir., Legal Serv. Trust Fund Program

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

EXECUTIVE SUMMARY

The Commission is responsible for oversight of approximately \$25 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 has proposed an 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.

The proposed amendment came before the Nominations and Appointments Committee which approved and directed that the amendment be distributed for public comment. The thirty-day public comment period, commencing on May 12 and ending on June 10, 2014 yielded no comments. It is now appropriate for the Board of Trustees to consider approval of the proposed revisions to the rule.

BACKGROUND

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.

ISSUE

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.

CONCLUSION

This request is for the Board of Trustees to approve 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. 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. The rule change would become effective with the Commission terms beginning at the close of the 2014 State Bar Annual Meeting, September 14, 2014. A redline version of the proposed changes is found at Attachment B.

REPORT OF PUBLIC COMMENTS RECEIVED:

No comments were received.

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 4, Section 2; Tab 15, Article 7, Section 3

RECOMMENDATION

PROPOSED BOARD COMMITTEE RESOLUTION:

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

RESOLVED, following publication for comment and considering no comments having been received, the Nominations and Appointments Committee recommends that the Board amend Rule 3.662(A); in the form attached, to be effective at the close of State Bar Annual Meeting September 14, 2014.

PROPOSED BOARD OF TRUSTEES RESOLUTION:

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

RESOLVED, following publication for comment and considering no comments having been received, upon the recommendation of the Nominations and Appointments Committee, the Board hereby amends Rule 3.662(A); in the form attached, to be effective at the close of State Bar Annual meeting, September 14, 2014.

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