

# AGENDA ITEM

**146 JULY 2015**

**DATE:** July 13, 2015

**TO:** Members, Planning and Budget Committee  
Members, Board of Trustees

**FROM:** Lawrence C. Yee, Acting General Counsel  
Dina E. Goldman, Acting Chief Assistant General Counsel

**SUBJECT:** Interfund Transfers and Loans Policy

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## EXECUTIVE SUMMARY

As required by Business and Professions Code section 6145(b), the California State Auditor conducted a performance audit of the State Bar of California and released its report in June. The report included a recommendation that the State Bar implement policies and procedures to restrict its ability to transfer money between funds that this Board or state law has designated for specific purposes. This item proposes a policy that provides procedures and restrictions for transfers and loans between State Bar funds.

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## BACKGROUND

As required by Business and Professions Code section 6145(b), the California State Auditor conducted a performance audit of the State Bar of California and released its report in June. The report included the following recommendation:

*To ensure that it spends revenues from the membership fee appropriately, the State Bar needs to implement policies and procedures to restrict its ability to transfer money between funds that its board or state law has designated for specific purposes.*

The Bar has 24 funds in addition to its general fund. Each of these funds is restricted for specific uses and purposes by statute, Rule of Court, State Bar Rule, or board resolution.

## DISCUSSION

The Bar obtained the services of a consultant with expertise in governmental and municipal accounting who developed a policy that will require transfers between funds to be clearly set forth in a budget or budget amendment approved by the Board. The policy also requires transfers to be supported by findings that demonstrate a clear nexus between the purpose of the transferring fund and the reason for the transfer to a different fund. The policy also provides requirements for interfund loans. It provides that the CFO may approve temporary interfund

loans for cash flow purposes that are expected to be resolved within 60 days. Other interfund loans may be approved by the Board, based on a clear set of findings. Loans between funds that are not fully repaid within one year will not be recorded as loans, but rather interfund transfers.

The complete proposed policy which will be a new section in Tab 17, Article 1 of the Board Book, appears as Attachment A to this item. This item proposes that the Board adopt the proposed policy.

#### **FISCAL/PERSONNEL IMPACT**

N/A

#### **RULE AMENDMENTS**

N/A

#### **BOARD BOOK IMPACT**

Tab 17, Article 1, New Section 4, Page 13 of 19

#### **BOARD COMMITTEE RECOMMENDATIONS**

The Planning and Budget Committee recommends that the Board of Trustees approve the following resolution:

**RESOLVED**, that the Board of Trustees approve the proposed Interfund Transfers and Loans Policy attached as Attachment A and direct staff to update the Board Book accordingly.

#### **ATTACHMENT(S) LIST**

- A. Interfund Transfers and Loans Policy

## ATTACHMENT A

### Section 4      Interfund Transfers and Loans Policy

To achieve important financial management objectives, the State Bar has established various funds to account for resources the use of which should be restricted to certain activities as listed in Section 3. Accordingly, each fund exists as a separate financing entity from all other funds, with its own funding sources, expenditures and net financial position (assets less liabilities).

This policy covers two types of interfund transactions: transfers and loans.

1.      **Transfers** move financial resources from one fund to another. While there is no change in the State Bar's overall financial position, interfund transfers result in reduced net assets in one fund and increased net assets in another.
2.      **Interfund loans**, which are usually made for temporary cash flow reasons, do not result in a change in net assets for either the lending or the borrowing fund: each is net asset neutral. From a financial condition perspective, the lending fund has simply traded cash for an interfund receivable from the borrowing fund; and the borrowing fund has offset the cash it received from the lending fund with an interfund payable.

In summary, interfund transfers result in a change in net assets in the affected funds; interfund borrowings do not, as the intent is to repay in the loan in the near term.

#### Interfund Transfers

Any transfers between funds must be clearly set forth in an adopted budget or budget amendment formally approved by the Board. Staff is then authorized to make transfers in an amount not to exceed the authorized limit. All interfund transfers must be supported by findings that demonstrate a clear nexus between the purpose of the transferring fund and the reason for the transfer of its funds to another. These findings may be set forth in the budget document, agenda reports, resolutions or other formal reports that are presented to the Board upon its review and approval of interfund transfers.

#### Interfund Loans

From time to time, interfund borrowings may be appropriate; however, these should be limited and subject to the following criteria to ensure that the fiduciary purposes of the lending and borrowing funds are met:

1.      The Chief Financial Officer is authorized to approve temporary interfund borrowings for cash flow purposes whenever the cash shortfall is expected to be resolved within 60 days. While there may be others, the most typical use of interfund borrowing under this circumstance is for grant programs, where costs are typically incurred before grant funds are received. However, in this case, the funds are typically received shortly after they are requested.
2.      All other interfund borrowings for cash flow or other purposes require case-by-case approval by the Board. The reason for the interfund loan and repayment terms

shall be clearly set forth in findings via the budget document, agenda reports, resolutions or other formal reports that are presented to the Board upon its approval of the interfund loan. After approval, staff is authorized to make the interfund loan in an amount not to exceed the authorized limit.

3. Any loans between funds not expected to be fully repaid within one fiscal year will not be recorded as interfund borrowings: they will be recorded as interfund transfers that affect net assets of the affected funds. However, underlying documentation is still required in such cases noting that the intent is for repayment of the transfer, including the repayment terms and conditions. The purpose of this “change in net assets” approach is to ensure fiscal transparency and accountability; and to guard against the perception that interfund loans are used to mask underlying fund deficits.