

## **AGENDA ITEM B**

**DATE:** September 29, 2015

**TO:** Members, Planning and Budget Committee

**FROM:** Christine Wong, Director of Finance  
Dina Goldman, Acting Chief Assistant General Counsel

**SUBJECT:** Fund Restructuring

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### **EXECUTIVE SUMMARY**

As part of its planning and oversight function, and in response to concerns raised in the June 2015 State Audit, this Committee initiated an assessment of the State Bar's existing fund structure, reserve policy and use of fund accounting in appropriately segregating earmarked resources. This item proposes a restructuring of the Bar's funds, based on that assessment and a subsequent detailed analysis conducted by staff and an independent consultant. The new structure divides the Bar's Program Funds into three categories - externally restricted funds, special revenue funds, and a consolidated general fund - in accordance with Generally Accepted Accounting Principles (GAAP). In addition, the Bar will maintain one Fiduciary Fund for the State Bar Access and Education Foundation.

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### **BACKGROUND**

As part of its planning and oversight function, and in response to concerns raised in the June 2015 State Audit, this Committee initiated an assessment of the State Bar's existing fund structure, reserve policy and use of fund accounting in appropriately segregating earmarked resources. For this effort the Bar engaged the services of William Statler, an independent consultant with expertise in governmental and municipal accounting.

At the July 2015 board meeting, the Board of Trustees adopted an Inter-fund Transfers and Loans Policy (JULY\_146), developed with Mr. Statler's assistance, that provides procedures for, and restrictions on, transfers and loans between State Bar funds.

Mr. Statler's overall Fund Accounting Review was completed in August 2015; the report concluded that the State Bar is appropriately using fund accounting in accordance with GAAP in recording and presenting its financial transactions; and that the State Bar appropriately accounts for the financial operations of its programs as Enterprise Funds. Along with this key finding, the report also provided an overview of GAAP and financial reporting principles for state and local governments, and made recommendations for a restructuring of the Bar's funds to more fully reflect those principles.

The Bar currently has twenty-four program funds in addition to its general fund. Attachment A shows the current fund structure and a description of each fund, as reported in the State Bar's 2014 Audited Financial Statements. Each of these funds is restricted for specific uses and purposes by statute, Rule of Court, State Bar Rule, or board resolution. The Review noted that,

while usually created with the goal of improving accountability, the proliferation of funds often makes an agency's financial position and fiscal operations more confusing and less transparent. As such, in accordance with GAAP, the Review recommends that the Bar limit the proliferation of funds and only establish separate funds where there are compelling policy reasons to do so. This approach will not only simplify accounting and financial reporting, but by focusing on meaningful resource restrictions and earmarking, it will improve accountability, transparency and understandability.

## **DISCUSSION**

Staff has worked with Mr. Statler on a thorough analysis of the Bar's current fund structure and basis of financial statement presentation. Based on this work, staff recommends that the Bar's Program Funds be divided into three categories - externally restricted funds, special revenue funds, and a consolidated general fund. In addition, the Bar will maintain one Fiduciary Fund for the State Bar Access and Education Foundation. The new fund structure is presented as follows:

### **Establishment and Classification of Funds**

GASB Statement No. 54 – *Fund Balance Reporting and Governmental Fund Type Definitions*, enhances the usefulness of fund balance information by providing clearer fund balance classifications that can be more consistently applied by clarifying the existing government fund type definitions. This Statement establishes fund balance classifications that comprise a hierarchy based primarily on the extent to which a government is bound to observe constraints imposed upon the use of the resources reported in governmental funds. Following this framework, Mr. Statler proposed that the State Bar's Program Funds be organized into four categories. The new fund structure, with funds categorized as explained below and with descriptions of restrictions and special revenue policy restrictions, appears as Attachment B.

#### **1. Restricted Funds**

Using GAAP as the framework, "restricted" funds are those whose use is externally restricted via legislation, bond covenants or similar external restrictions. In short, to be classified as a "restricted" fund, the restriction must be externally imposed as set forth under GAAP. This means that all special purpose assessments approved by the State Legislature, including voluntary ones, will be accounted for in a separate Restricted Fund. In the case of limited-term assessments that will expire at some point, the fund will be closed-out when the last assessment is received or all proceeds are used for designated purposes, whichever occurs last. Closed-out fund balances will typically be transferred to the General Fund; however, the Board will determine the disposition of any residual balances on a case-by-case basis. The following are proposed Restricted Funds:

- Client Security Fund
- Elimination of Bias and Bar Relations Fund
- Equal Access Fund
- Justice Gap Fund
- Lawyer's Assistance Fund
- Legislative Activities Fund
- Legal Services Trust Fund
- Legal Specialization Fund

- Information Technology Special Assessment Fund

*Note: The Building Assessment Fund was funded with a limited-term assessment and will be closed-out in 2015.*

## **2. Special Revenue Funds**

While these could be accounted for within the General Fund, there may be compelling policy reasons to account for the use of these resources separately. In this case, separate “Special Revenue Funds” will be created, recognizing that in accordance with GAAP, these could have been accounted for within the General Fund. With findings as to the fund purpose and why earmarking these resources is appropriate, the following are proposed Special Revenue Funds:

- Admissions Fund
- Annual Meeting Fund
- Grants Fund
- Sections Fund

## **3. General Fund**

All other revenues, expenditures and other uses will be accounted for in the General Fund. These funds will be generally available for State Bar purposes, subject to budget priorities set by the Board. Consolidation of these funds will supersede previous Board policy regarding use of these funds. However, previous policy adopted by the Board, requiring adoption of the budget at the cost center level in addition to the fund level, and requiring reporting and approval of interdepartmental cost-center transfers, remains in place and unchanged.

Current funds that are recommended for consolidation into the General Fund are:

- General Fund
- Howard Building Fund
- Legal and Education Development Fund
- Los Angeles Facility Fund
- Public Protection Fund
- Support and Administration Fund
- Technology Improvement Fund
- Fixed Assets Fund
- Benefits Reserve Fund

## **4. Fiduciary Fund**

Along with the Program Funds, the State Bar has one Fiduciary Fund: The State Bar Access and Education Foundation Fund. This fund is maintained by the State Bar in a third party, trustee capacity on behalf of the Foundation. Under GAAP, these funds are not available for the State Bar’s operations. However, as required under GAAP, they are included in the State Bar’s audited financial statements.

## **RECOMMENDATION**

Staff recommends that the Planning and Budget Committee recommend that the Board adopt this new consolidated fund structure in accordance with GAAP.

## **FISCAL/PERSONNEL IMPACT**

None

## **RULE AMENDMENTS**

Not Applicable

## **BOARD BOOK IMPACT**

Revision to Tab 17, Article 1, Section 3 Description of Funds

## **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 new consolidated fund structure (Attachment B) and the corresponding descriptions of purpose for Restricted and Special Revenue Funds in accordance to GAAP.

### **Attachment List:**

- A. Current Description of Funds (based on the State Bar's audited financial statements)
- B. Proposed New Description of Funds
- C. Fund Restructuring Summary