

AGENDA ITEM

703 SEPTEMBER 2016

DATE: September 12, 2016
TO: Members, Board of Trustees
FROM: Elizabeth R. Parker, Executive Director
SUBJECT: TFARR Pro Bono Admissions Requirement

EXECUTIVE SUMMARY

At its July 22, 2016 meeting, the Board of Trustees directed staff to pursue and present an alternate path towards a pro bono admissions requirement in the event that Senate Bill 1257 (SB 1257) did not become law.

Since that meeting, the Legislature passed SB 1257, however, Governor Brown vetoed the bill. In his veto message, Governor Brown expressed support for pro bono service but opposed a state mandate, stating it would be “unfair to burden” students with mandatory pro bono. The Governor cited the “skyrocketing” costs associated with law school attendance and a challenging job market for law graduates. Instead of mandatory pro bono, the Governor recommends a focus on lowering the cost of legal education and devising less expensive ways to qualify for the Bar Exam.

Staff continues to support and encourage expanded pro bono efforts. Staff, however, recommends that the State Bar not pursue a pro bono admissions requirement at this time. Were the State Bar to proceed with a pro bono admissions requirement in the wake of the Governor’s veto message, it may risk damaging its credibility with the chief executive.

Staff’s recommendation is also based upon the implementation costs of such a requirement at a time when the organization is facing a funding shortfall and needs to allocate available resources to the attorney discipline system.

BACKGROUND and DISCUSSION: PRO BONO PRACTICE REQUIREMENT

Concurrent with staff efforts to modify Task Force on Admissions Regulation Reform (TFAAR) II recommendations based on a Board of Trustee directive to reassess those recommendations’ fiscal and human resource implications, Senator Marty Block introduced Senate Bill 1257 (SB1257), legislation that would codify a 50 hour pro bono admissions requirement.

If the legislation had been enacted, it would have been applicable to all applicants who entered law school on or after January 1, 2018. It would have become a statutorily mandated pro bono program for the State Bar to implement.

As noted above, the Legislature passed SB 1257 but, on August 29, 2016, the Governor vetoed the legislation. Were the State Bar to proceed with a pro bono admissions requirement in the wake of the Governor's veto message, it may risk damaging its credibility with the chief executive. As discussed below, it is estimated that implementation of a new pro bono admissions requirement would have ongoing annual costs ranging from \$350,000 to \$700,000. The State Bar, however, is facing a funding shortfall and must identify and allocate additional resources to the attorney discipline system. This shortfall pre-dates the recent legislative failure of the State Bar's annual fee bill but is made all the more pressing in this context.

The State Bar shares the Governor's concern with the rising cost of legal education and the high debt burden faced by many law graduates. In 2015, the State Bar's Civil Justice Strategies Task Force examined, among other issues, the intersection between law school debt and access to justice. According to the Task Force's report, "[i]n California today, the average student debt for law school graduates as they enter the profession is in excess of \$134,000 and the amount of money borrowed by law students has more than doubled over the past ten years." (internal citations omitted)

The State Bar also supports and encourages pro bono participation. Since 1989, the State Bar's Pro Bono Resolution has encouraged all attorneys to contribute at least 50 hours per year of pro bono legal services and to support pro bono through financial contributions.

Other State Bar efforts include designing and facilitating free high-quality substantive and skill-based training for pro bono counsel and other advocates on a variety of topics; recognizing exemplary pro bono service through annual pro bono awards; awarding special certificates to lawyers, law students, paralegals, legal secretaries, and other volunteers who contribute at least 50 hours of pro bono service a year; administering the Pro Bono Practice Program to incentivize inactive attorneys to provide pro bono assistance; providing an MCLE exemption for government employees who do pro bono work with legal services organizations; attending law school pro bono orientations to educate students about the need for and importance of pro bono; and convening the Pro Bono Coordinating Committee to assist with statewide coordination of pro bono activity on critical topics and emerging issues.

Notwithstanding our strong support for expanded pro bono participation, in light of the Governor's veto and the State Bar's current funding status, staff does not recommend pursuing a pro bono admissions requirement at this time.

FISCAL/PERSONNEL IMPACT

Staffing and information technology resources would be required to develop and implement a system for tracking and auditing this new admissions requirement. Total estimated ongoing costs range from \$350,000 to \$700,000, depending on the nature of the audit function; if only a limited scope audit was contemplated, the lower-end estimate is likely more reasonable. Estimated costs would include one-time and on-going expenses as follows:

Category	One-Time	Ongoing
Software for Online Submission	\$50,000	

Permanent Staff @ 2 FTEs ¹		\$250,000
Temporary Staff ²		\$150,000

RULE AMENDMENTS

Title 4. Admissions and Educational Standards Division 1.

BOARD BOOK IMPACT

None

BOARD GOALS & OBJECTIVES

Goal 1.e.: *Expediently refine, adopt and implement phased-in and/or modified Task Force on Admissions Regulation Reform recommendations.*

BOARD COMMITTEE RECOMMENDATIONS

The Board of Trustees approves the following resolution:

RESOLVED, that the State Bar continue to support and encourage increased pro bono participation but that it not pursue a pro bono admissions requirement at this time.

FURTHER RESOLVED, that the Board of Trustees reassess in one year whether to pursue a pro bono admissions requirement.

ATTACHMENT(S) LIST

A. SB 1257 Veto Message

¹ Represents a composite of line staff and supervisors totaling 2 FTE. Assumes one full-time dedicated position and portions of supervisor and additional line staff positions.

² Based on estimates derived from review of annual cost of MCLE audit: 4,000-6,000 members audited annually.