

AGENDA ITEM

703 OCTOBER 2016

DATE: September 26, 2016
TO: Members, Board of Trustees
FROM: Leah Wilson, Chief Operating Officer
SUBJECT: Proposal to Enable Mandatory Electronic Billing and Payment of State Bar Membership Fees

EXECUTIVE SUMMARY

In light of the goal of identifying potential General Fund cost-savings that can be used to increase funding for the discipline system, State Bar staff have identified a number of potential modifications to the annual billing process that will advance that objective. Most immediately, the State Bar can realize savings by providing the annual State Bar Membership Fee Statement electronically, pursuant to California Rule of Court, rule 9.7, instead of mailing those statements. Although individual State Bar members can currently pay their membership fees online, there is no mechanism in place for firms to make payments on behalf of their respective employees. This functionality is currently being developed by State Bar Information Technology (IT) staff.

Staff expects to disseminate 2017 fee statements electronically, and to support online payment for both firms and individuals. Experiences garnered with the 2017 billing process, will inform future staff recommendations regarding a transition to *mandatory* electronic payment.

DISCUSSION

Electronic Billing

The State Bar currently mails the annual State Bar Membership Fee Statement to its members. The projected costs of mailing the 2017 fee statements are \$80,000 for printing and \$140,000 for postage. The State Bar could realize an immediate cost savings of approximately \$220,000 by providing the fee statement electronically pursuant to rule 9.7, instead of mailing those statements. Doing so will also result in environmental benefits.

Rule 9.7(a) provides:

To maintain the roll of attorneys required by rule 9.6 and to facilitate communications by the State Bar with its members, each member must use an online membership account on a secure system provided by the State Bar to report a current:

- (1) Office address and telephone number, or if none, another address; and
- (2) An e-mail address not to be disclosed on the State Bar's Web site or otherwise to the public without the member's consent.

Rule 9.7(d) contains an exemption, which provides: "A member who does not have online access or an e-mail address may claim an exemption from the reporting requirements of this rule. The exemption must be requested in the manner prescribed by the State Bar."

The Board approved proposed new rule 9.7 in September 2008, following a public comment period. In March 2009, the State Bar filed a request that the California Supreme Court adopt the new rule. The request noted:

Membership-wide communications like the *California Bar Journal* and the annual dues statement are large expense items that would be provided electronically if members' e-mail addresses were required. Production and mailing expenses for the *Journal* are approximately \$1,200,000 annually. The same expenses for the annual dues statement are approximately \$270,000 this year. Adoption of Rule 9.7 would mean substantial reduction, if not elimination, of these expenses.

The Supreme Court adopted rule 9.7 in March 2009, effective February 1, 2010. Although the authority to provide the annual fee statement electronically was built into rule 9.7 from the outset, electronic billing has not been implemented to date. Electronic billing will now be implemented, starting with the 2017 fee statement.¹ Staff will widely publicize the change before implementation, in order to alert members and law firms and ease the transition from paper to electronic billing.²

Electronic Payment

Although individual State Bar members can currently pay their membership fees online, electronic payment is not required.³ Further, there is no mechanism in place for organizations to make electronic payments on behalf of individual attorneys. A number of issues are currently being assessed as related to electronic payment including:

- Developing appropriate exemptions for those who cannot pay online;
- Determining the ability of private firms and government organizations to pay via ACH (e-check) and/or credit card;
- Determining whether the State Bar should begin charging a credit card processing fee, or continue to absorb that fee;

¹ The exact content of the 2017 fee statement is still unknown, pending the outcome of the State Bar's request to the Supreme Court for a special regulatory assessment. However, staff is preparing for timely issuance of the statement, even in light of the uncertainty surrounding the regulatory assessment request process.

² There are about 500 attorneys who have filed a formal exemption from the requirement to maintain an e-mail address with the State Bar. There are also about 3,500 inactive attorneys who are less than 70 years old, and therefore pay fees, who have not registered through My State Bar Profile and provided the State Bar with an e-mail address. The fee statement will continue to be mailed to both of these groups of attorneys.

³ Approximately 35-40% of the members currently pay online.

- Determining whether the State Bar should charge an ACH processing fee once that payment modality is established;
- Creating a method to allow firms or agencies to pay on behalf of their attorneys; and
- Creating an option to allow a member to designate an agent to make the payment on his or her behalf.

Initial efforts to develop a platform for firm billing and payment are also underway. As part of those efforts, staff is seeking input and feedback from governmental, private, and non-profit law firms in order to finalize requirements and test the system. To that end, a survey was recently sent to the Association of Legal Administrators, requesting input, as well as a number of organizations representing large groups of governmental employers (e.g. the California Public Defenders Association and the California District Attorneys Association). In addition, surveys have been sent to law corporation and LLP contacts in the State Bar's database, and to County Counsel offices throughout the state. Individualized outreach efforts have taken place with respect to the Judicial Council, the Department of Justice, and the California State Association of Counties. Staff has solicited interested individuals for participation in a working group to finalize requirements and test the billing and payment system. To date, over 100 organizations and/or firms have expressed interest. All of these efforts are aimed at ensuring a smooth and successful transition to electronic billing and payment.

RECOMMENDATIONS

Provide the membership fee statement electronically pursuant to rule 9.7 and continue exploring and developing a proposal for mandatory electronic payment of membership fees.

FISCAL/PERSONNEL IMPACT

The State Bar could realize an immediate savings of approximately \$220,000 by providing the 2017 membership fee statement electronically, pursuant to rule 9.7 (\$80,000 for printing and \$140,000 for postage). The cost savings associated with mandatory electronic payment of fees will be presented to the Board when details on a specific proposal are presented.

RULE AMENDMENTS

None.

BOARD BOOK IMPACT

None