

OPEN SESSION AGENDA ITEM

41 MARCH 2018

DATE: March 9, 2018
TO: Members, Board of Trustees
FROM: Leah T. Wilson, Executive Director
SUBJECT: Executive Director's Report

There are a number of important items on the March Board agenda, including fingerprinting, the statutory report on the Client Security Fund, and revisions to the State Bar's 2017-2022 Strategic Plan. I will discuss each of these briefly below.

Before commenting on these items however, I bring to the Board's attention a challenge that staff has come across in preparing for this month's meeting. Preparation of the Executive Director/Chair Relationship item on the Executive Committee agenda, and the Strategic Planning items on both the Programs Committee and Board agendas, included significant Board Book review. This review identified several relevant Board Book provisions applicable to each agenda item, some of which conflicted with each other, current practice, and/or desired practice. We have ostensibly been engaged in a Board Book clean-up effort for several years now, and have in fact made some progress on the limited sections that have been modified pursuant to Governance in the Public Interest Taskforce recommendations. Unfortunately, there is significantly more work to do in order to make the document current and accurate, and, most importantly, a useful resource for the Board and staff.

I have come to the conclusion that, rather than continuing to tinker with one section at a time – which can have very problematic unintended consistency consequences - the Board Book should be “zero-based”. Zero-basing, a term most often used in budgeting, refers to the concept of starting with nothing and building from there. As a part of very preliminary efforts to re-think the Board Book, staff has solicited examples from other similar entities. Interestingly, the California Medical Board's parallel manual is 19 pages long, while ours is several hundred. While length is not necessarily a proxy for utility, the sheer size of our Board Book does in and of itself suggest the need for major revision. In the coming weeks I will work with staff to develop a proposed approach to overhauling the Book to take to the Board for consideration at an upcoming meeting.

Board of Trustees Agenda Overview

Report on the Client Security Fund

Business and Professions Code section 6140.56 directs the State Bar to conduct a thorough analysis of the Client Security Fund (CSF) and report the findings to the Legislature no later than March 15, 2018. A draft of the report has been provided to the Board for review and discussion. The report identifies a one-time CSF pending inventory funding need of \$14.2

million in excess of current annual CSF revenue, and a more modest ongoing annual funding need of an additional \$1.8 million. Should the Board approve the budget amendments being considered on its March 9 agenda, which include an increase in the 2018 CSF application payout budget, the \$14.2 million one-time funding need will be reduced by \$800,000.

In addition to identifying CSF funding needs, the report outlines a number of options for addressing those needs, including modifying eligibility requirements and payout limits, and seeking a statutory fee increase. The report also addresses the possibility of implementing reductions to State Bar staff compensation levels. Although the statute mandating the report's completion directed a review of State Bar executive compensation only, with the thought being that executive staff compensation could be reduced and redirected to the CSF, as noted in the report body it would not be possible to make salary adjustments to only one segment of our workforce. Salary structures necessarily comprise articulated salary range increases aligned with progression in classification levels. Reductions in State Bar compensation as a method for increasing the amount of funding available to the CSF would therefore result in significant pay reductions for *all* staff, including and most significantly our represented workforce. Given the untenable nature of this outcome, it is likely that any recommendations the Board decides upon will focus on many of the other options contained in the draft report.

Strategic Planning

The Board will be asked to consider access to justice amendments to the Strategic Plan. These amendments range from the incremental to the ambitious, with Board discussion needed around the key question of the State Bar's role in advancing access to justice – what is the State Bar uniquely suited to do?

The Board will also be asked to incorporate specific objectives from the three-year Information Technology (IT) Strategic Plan in to the 2017-2022 Strategic Plan. This Plan amendment calls the question of the availability of funding to support the Bar's critical IT infrastructure and application needs. After 20 years without a licensing fee increase, there is extremely limited funding available on an annual basis to invest in technology. This situation is increasingly at odds with our needs, which are mounting after years of under-investment in this area. As we continue to discuss approaches to securing a licensing fee increase, we will need to ensure that adequate funding to support critical infrastructure investments is a key part of the conversation.

Attorney Re-Fingerprinting

The Board will review a summary of the comments received pursuant to the second public comment period for the proposed Supreme Court rule. The Board will also be asked to approve the implementation schedule that staff has developed, failure to comply with which will result in penalties up to and including administrative suspension. Lastly, the Board will consider staff's proposed approach to implementing the requirement for those attorneys and legal aid organizations that are currently eligible for reduced annual licensing fees. Upon resolution by the Board, staff will submit the proposed rule to the Supreme Court immediately following the March meeting.

Concurrent with submission, staff plans to issue an FAQ to licensed attorneys reminding them of their reporting requirements and encouraging them to report as appropriate.