



# The State Bar *of California*

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## **OPEN SESSION AGENDA ITEM III.A. JULY 2021**

**DATE:** July 16, 2021

**TO:** Members, California Board of Legal Specialization

**FROM:** Amy C. Nuñez, Director, Office of Admissions

**SUBJECT:** Approval of 2022 Legal Specialization Budget Reserve Spend Down Initiatives for Recommendation to the Board of Trustees for Final Approval

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### **SUMMARY**

Following the June 2021 California Board of Legal Specialization (CBLS) meeting, staff have further researched and developed multiple Legal Specialization Reserve Budget spend down options for consideration by the CBLS. Once approved by the CBLS, the proposed initiatives will be submitted to the Board of Trustees (BOT) for final approval.

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### **BACKGROUND**

The State Bar's Reserve Policy requires a Minimum Target Reserve of two months of operating expenses (17 percent) for each fund and requires a spend down plan when reserves remain greater than 30 percent for longer than six consecutive months.

In 2016, BOT approved the recommendations of CBLS for a spend down of reserves to bring the balance down to \$464,000 from approximately \$6 million. Below are the spend down initiatives approved at that time.

- Annual Fee holiday - \$1.6 million
- Case Management System (AIMS) - \$1.5 million
- Outreach - \$100,000
- Exam Bank Prep/System - \$2.2 million
- New Specialties - \$200,000
- Exam Fee holiday/reduction - \$318,000

Currently, the Legal Specialization Fund is budgeted to be at 128 percent of the reserve balance<sup>1</sup> at the end of 2021

- Legal Specialization Fund net balance as of 12/31/2020 = \$5,426,442
- 2021 budgeted net balance as of 12/31/2021 = \$4,372,842
- 2021 budgeted expenses = \$3,417,300
  - Minimum target reserve balance (17 percent) = \$580,941
  - Maximum reserve balance (30 percent) = \$1,025,190

To comply with the State Bar's Reserve Policy, a spend down of approximately \$3.4 million is required to reduce the Legal Specialization Fund reserve to the Maximum Target Reserve balance of \$1,025,190.

## DISCUSSION

At its June meeting, the CBLS discussed potential spend down initiatives, and staff recommended the following options:

- A. 2022 Legal Specialization Program Annual Fee Holiday - **\$1,785,960 (a one-time fee waiver in 2022)**
- B. Five-Year Annual Fee Reduction for Specialists Age 70 Years or Older - **\$866,320 (a fee reduction occurring between 2022 and 2026)**
- C. Advertising/Publications - **\$100,000 (incorporated annually from 2022 through 2026)**
- D. Five-Year Application for Initial Certification Fee Holiday - **\$384,790 (a fee waiver occurring between 2022 and 2026)**
- E. Five-Year Application for Recertification Fee Reduction - **\$637,555 (a fee reduction occurring between 2022 and 2026)**
- F. Admissions Applicant Portal File Storage - **\$74,402 (annually)**
- G. Implementation of Enhanced Work Plan Initiatives - **\$66,040 (annually)**

CBLS directed staff to further research projected revenue and expenses for the next ten years, and staff now recommend the following options for transmittal to the BOT:

- A. 2022 Legal Specialization Program Annual Fee Holiday - **\$1,863,540 (a one-time fee waiver in 2022)**

The Legal Specialization Program Annual Fee is a \$360 fee assessed each year on a specialist's annual fee statement. Staff are recommending a one-time fee holiday for 2022.

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<sup>1</sup> 2021 Adopted State Bar Budget, 2/26/2021 (<http://www.calbar.ca.gov/Portals/0/documents/reports/2021-State-Bar-Budget.pdf>, page 107)

**B. Advertising/Outreach - \$120,000 (incorporated annually from 2022 through 2025)**

Funding is proposed to research and develop social media campaigns to the public and to attorneys. Other uses would include material redesign, advertisements, and physical outreach opportunities. It is recommended that \$30,000 be set aside each year, for a period of four years.

**C. Application for Initial Certification Fee Holiday - \$274,789 (a fee waiver occurring between 2022 and 2025)**

Applicants seeking State Bar certification must show compliance of the certification requirements by submitting an Application for Initial Certification and related processing fee. Applicants are only eligible to apply for initial certification after successfully passing the Legal Specialist Examination, and the fee to apply is in addition to fees incurred registering for the exam. Currently, the application for initial certification processing fee is \$300. It is proposed that this fee be waived for four years.

**D. Admissions Applicant Portal File Storage - \$107,423 (annual costs through 2025)**

With the Admissions Applicant Portal, Legal Specialization has been able to move a majority of its paper processes onto an electronic platform. Users can register for the Legal Specialist Examination, apply for initial certification or recertification, report Legal Specialist Continuing Legal Education Compliance, or submit other legal specialization requests all online in the portal. However, a large population of participants still utilize paper forms and applications. This requires staff to scan and upload copies into the portal. With retention policies, it is critical the Legal Specialization program maintain this electronic database. Taking current file and data storage, and projected increases into consideration, it is proposed that \$107,423 be set aside to account for online storage costs over the next four years.

**E. Implementation of Enhanced Work Plan Initiatives - \$426,961 (annual costs through 2025)**

Staff propose a heightened focus on various Work Plan initiatives. Anticipated projects would include (1) continued monitoring and tracking of certified specialist designations, (2) monitoring and managing outreach, especially as it relates to informing the public about the Legal Specialization Program, and (3) researching new specialty areas, the public need, and internal processes to add new legal specialization areas.

It is proposed this be completed through the creation of a dedicated staff position for four years. Taking the minimum salary range of a Program Specialist, and considering other benefits and overhead, it is projected this would cost \$426,961 over four years.

In extending the overall spend down plan over four years, the temporary reduction of the respective fees will allow staff to further evaluate the effect on the overall budget without

permanently losing those revenue streams. Staff recommend reviewing the implementation of the spend down plan on annual basis. If appropriate, the CBLS will have the ability to return fees back to current levels, or permanently adjust fees at the end of this spend down.

The table in Attachment A provides a breakdown of budgeted revenue, budgeted expenses, and the recommended spend down options, all projected over the next ten years (the four years through the proposed spend down, and their implications over the following six years). Implementation of these options will total \$2,792,713, which will reduce the Legal Specialization Fund balance to \$889,683 at the end of the four-year spend down plan, or 26.3 percent of reserves.

Attachment B provides a chart to further compare the total revenue, total expenses, minimum reserve target balance, maximum reserve target balance, and the total net balance over the next ten years.

To ensure proper implementation of the spend down plan, and to prepare for any subsequent adjustment of fees, staff further recommend (1) updating the CBLS Work Plan to include an initiative to monitor the budget and reserve balance, and (2) setting a meeting half-way through the spend down (2024) to review the effects of the spend down plan, and begin additional, specific research to the adjustment of fees. Staff will prepare this recommendation for CBLS approval at its next regularly scheduled meeting.

## **RECOMMENDATION**

**It is recommended that the California Board of Legal Specialization approve the following motion:**

**MOVE**, that the updated spend down options A-E above are approved for transmittal to the Board of Trustees for final approval.

## **ATTACHMENTS LIST**

- A. CBLS Budget Projection Table (2021-2031)
- B. CBLS Reserve Balance Projection Chart (2021-2031)