



The State Bar of California

OPEN SESSION AGENDA ITEM 50-5 JULY 2023 FINANCE COMMITTEE III.B

DATE: July 20, 2023

TO: Members, Finance Committee
Members, Board of Trustees

FROM: Aracely Montoya-Chico, Chief Financial Officer

SUBJECT: Approval of 2023 Budget Spend Down Plan Regarding Lawyer Assistance Program Fund and Legislative Activities Fund

EXECUTIVE SUMMARY

This agenda item outlines spend-down plans for two funds that have had excess balances (greater than 30 percent reserve) for six consecutive months or more, in accordance with the State Bar's reserve policy: (1) the Lawyer Assistance Program (LAP) Fund and (2) the Legislative Activities Fund.

BACKGROUND

Spend-Down Plan, Funds with Excess Reserves

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. Whenever reserve levels in the General Fund, or any restricted fund other than excluded excess reserve funds, surpass 30 percent for a consecutive six-month period, spend-down funding shall occur in accordance with the following principles:

1. Fund balance spend-down should be utilized to offset dues and other assessments and use charges, where possible.
2. Fund balance spend-down should be used to advance strategic efficiency investments that will result in short-or long-term reductions in operating costs.
3. Fund balance spend-down should be used to bolster the CSF, where possible.
4. Fund balance spend-down should be used to increase legal services funding, where possible.

The table below shows the projected 2023 reserve balance for the two funds with excess reserves, as defined by the policy.

Table 1. Minimum-Maximum Potential Spend-Down by Fund

Fund	2023 Projected Reserve Balance	2023 Reserve Level %	Min Target Spend 17%	Max Target Spend 30%
Lawyer Assistance Program	1,033,222	40%	500,000	200,000
Legislative Activities	220,139	70%	142,000	96,000

LAWYER ASSISTANCE PROGRAM (LAP) FUND

LAP is projected to have a reserve level of 40 percent. In order to comply with the State Bar’s reserve policy, a spend-down of at least \$200,000 is required.

LEGISLATIVE ACTIVITIES FUND

In the adopted 2023 budget, Legislative Activities was projected to have a reserve level of 218 percent, based in part on budgeted revenue of \$502,000. However, at the end of the annual licensee billing period, only \$41,000 of revenue was received. With this updated revenue amount, the fund still has a reserve level of 70 percent. In order to comply with the State Bar’s reserve policy, a spend-down of at least \$96,000 is required.

DISCUSSION

SPEND-DOWN, FUNDS WITH EXCESS RESERVES

Potential spend-down initiatives considered for the LAP Fund are outlined below. Staff is not recommending any spend-down in relation to the Legislative Activities Fund, also as described below.

LAP SPEND-DOWN PLAN

Business and Professions Code section 6140.9 requires that any “excess funds not needed to support the program [LAP], including reserve funds, may be transferred to fund the Client Security Fund (CSF) established pursuant to section 6140.5, provided there are sufficient funds available to fully support the program.” At the close of each calendar year, an assessment is made as to whether LAP has excess funds and whether all or a portion of that excess reserve should be transferred to the CSF. Although LAP does have an excess fund balance at this time, CSF staff has indicated that there is no need to redirect excess funds from LAP as the CSF program would not be able to spend the additional funds in the current year. As such, an alternate spend-down plan has been developed by LAP staff:

1. Establish a new grant program instead of loan program for participants who need financial assistance. Cost associated: \$100,000
2. Develop a Small and Solo Support program, including a law practice management

e-learning course and subscriptions to various support resources for participants and dedicated groups. Cost associated: \$150,000

Total spend-down cost: \$250,000

LEGISLATIVE ACTIVITIES SPEND DOWN PLAN

The Legislative Activities Fund currently covers staff time associated with lobbying work. The fund is funded through voluntary fee donations by attorneys, which are currently set to \$5. The State Bar's 2023 fee bill converted the Legislative Activities fee from an opt-out to an opt-in status, and a significant reduction in the level of funding was collected as a result of this conversion. For the 2023 licensee billing year, only \$41,000 of revenue was received compared to the budgeted revenue of \$500,000. Staff does not recommend any spend-down of reserves at this time, enabling the State Bar to use the remaining balance of this fund to support legislative activities work for as long as possible, with the understanding that incoming revenue levels will be vastly lower than in the past.

FISCAL/PERSONNEL IMPACT

\$250,000 to effectuate recommended LAP spend-down plan.

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None – compliance

RECOMMENDATIONS

Should the Finance Committee concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Finance Committee recommends that the Board of Trustees approves the proposed recommendations relating to excess reserves in the Lawyer Assistance Program Fund and Legislative Activities Fund.

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees, upon recommendation of the Finance Committee approves the plan for addressing excess reserves in the Lawyer Assistance Program Fund and Legislative Activities Fund.

ATTACHMENT LIST

None