



THE STATE BAR OF CALIFORNIA

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Title of Report: Plan To Implement Transition To 19-Member Board Of Trustees
Statutory Citation: Business and Professions Code section 6009.7
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Under Business and Professions Code section 6009.7, the State Bar of California has submitted to the Senate and Assembly Committees on Judiciary the report describing the manner determined by the State Bar for gradually reducing number of members on its Board of Trustees from 23 to 19 members by no later than October 31, 2014. The following summary is provided under Government Code section 9795.

The current 23 member board consists of 15 elected attorney-members; six appointed public members; a representative of the California Young Lawyers Association (CYLA); and the State Bar President. Changes in the law provide for the reduction to the 19 member board by eliminating the CYLA representative, requiring that the State Bar President be one of the 19 board members, and replacing the 15 elected attorney-members with 13 new attorney-members who will be selected as follows: six elected one each from the six new State Bar Districts based on California's six appellate court districts; five will be appointed by the Supreme Court; one by the Senate Committee on Rules; and one by the Speaker of the Assembly.

No terms of current board members will be reduced, shortened, lengthened, or abolished. Each of the present 15 elected attorney-members serves a three-year term and a fourth year if elected in the last year of his or her term as the next State Bar President. The terms of these 15 members are scheduled to expire—five each year—at the conclusion of the annual meetings of the State Bar on October 14, 2012, October 13, 2013, and September 14, 2014. The terms of the CYLA representative will end at the conclusion of the 2012 annual meeting. The State Bar has adopted a plan to provide for the elections of the six new attorney-members from the new State Bar Districts as follows: one each from court of appeal districts 4 and 5 in 2012; one each from court of appeal districts 1 and 3 in 2013, one each from court of appeal districts 2 and 6 in 2014. The Supreme Court is considering options for its selection process and the timing and number of its appointments over the three year period. Similarly the Senate Committee on Rules and the Speaker of the Assembly may determine the timing of their respective appointments.

The State Bar has amended its rule providing for the pre-existing State Bar Districts for electing attorney-members of the board, which were repealed on January 1, 2012, and replaced them with six new districts composed of the counties in the court of appeal districts as constituted in Section 69100 of the Government Code on December 31, 2011. In addition, the State Bar has also amended its rule providing for the staggered elections replacing the election of five of the existing 15 attorney-members every three years with the election of two of the new six members every three years.

The full report is available at: <http://www.calbar.ca.gov/AboutUs/Publications.aspx>.

A printed copy of the report may be obtained by calling 916-442-8018.

**Report of
The State Bar of California
Plan to Implement Transition to
19-Member Board of Trustees**



January 31, 2012

REPORT OF THE STATE BAR OF CALIFORNIA: PLAN TO IMPLEMENT TRANSITION TO 19-MEMBER BOARD OF TRUSTEES

INTRODUCTION

Pursuant to Business and Professions Code section 6009.7, subdivision (a)(3), added by Statutes 2011, chapter 417 (Sen. Bill No. 163 (2011-2012 Reg. Sess.))¹, section 8, the State Bar of California submits to the Senate and Assembly Committees on Judiciary its report describing the manner determined by the State Bar for implementing the transition to a 19-member board of trustees by no later than October 31, 2014.

SUMMARY OF SB 163

SB 163 changed the governance structure of the State Bar.²

Before January 1, 2012, the State Bar was governed by a board known as the Board of Governors of the State Bar. The board of governors consisted of 23 members, including 15 attorney members, one attorney member elected by the board of directors of the California Young Lawyers Association, six public members, and the President of the State Bar. Prior provisions of the State Bar Act (Bus. & Prof. Code, § 6000 et seq.) provided for the election of the attorney members to the board from specified counties included in nine State Bar Districts.

¹ Hereinafter, "SB 163." A copy of SB 163 as chaptered is available at http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0151-0200/sb_163_bill_20111002_chaptered.pdf.

² In 2010, the Legislature added Business and Professions Code section 6001.2 to establish the Governance in the Public Interest Task Force composed of the State Bar President and seven attorney members and three public members of the board appointed by the President. The statute required the task force to prepare a report with recommendations for changes in the governance of the State Bar that would enhance and ensure that protection of the public is the highest priority of the State Bar in the licensing, regulation and discipline of attorneys. After receiving a majority and minority report from the task force in May 2011, and review of the report by the Assembly and Senate Committees on the Judiciary, SB 163 was enacted with its provisions amending the governance structure of the State Bar. The Report and Recommendations of the State Bar of California Governance in the Public Interest Task Force is available at <http://www.calbar.ca.gov/LinkClick.aspx?fileticket=k81KfmYXBjA%3d&tabid=2973>.

The board's public members, who may not be members of the State Bar or admitted to practice before any court in the United State, were appointed by the Governor and the Legislature.

SB 163 revised and recast these provisions by renaming the board of governors as the board of trustees.³ It revised the composition of the board to include no more than 23 members and to reduce to no less than 19 members by no later than October 31, 2014.⁴ The new 19 member board of trustees would include the six public members appointed by the Governor and the Legislature and 13 new attorney members. These 13 attorney members consist of six attorney members elected from new State Bar Districts based on the six court of appeal districts⁵, five attorney members appointed by the Supreme Court⁶, and two attorney members appointed by the Senate Committee on Rules and the Speaker of the Assembly⁷. SB 163 provides terms of three years for these attorney members and limits the elected and Supreme Court appointed members to being reappointed or reelected for one additional term.⁸ With respect to the Supreme Court appointments, SB 163 specifies criteria that the Supreme Court may consider in making its appointments and requires the State Bar to carry out the administrative responsibilities related to the Supreme Court's appointments.⁹

SB 163 also changed the number of vice presidents from four to one so that the officers of the State Bar shall now consist of the president, a vice president, a secretary, and a treasurer.¹⁰ SB 163 amended the time for when the board may elect the officers from within 270 to 90 days before the annual meeting, and it further provided that the president and the other officers may

³ Bus. & Prof. Code, § 6010, as amended SB 163, § 9.

⁴ Bus. & Prof. Code, § 6011, as amended SB 163, § 10.

⁵ Bus. & Prof. Code, §§ 6012, 6013.2, added by SB 163, §§ 11, 15.

⁶ Bus. & Prof. Code, § 6013.1, added by SB 163, § 14.

⁷ Bus. & Prof. Code, § 6013.3, added by SB 163, § 15.5.

⁸ Bus. & Prof. Code, § 6013.1, subd. (b); § 6013.2, subd. (b).

⁹ Bus. & Prof. Code, 6013.2, subds. (d) & (e).

¹⁰ Bus. & Prof. Code, § 6020, as amended SB 163, § 25.

be elected from among all members of the board.¹¹ Further, SB 163 deleted the limitation that the president may vote to break a tie vote of the board.¹²

SB 163 requires the reduction of the board of trustees from 23 to 19 members be completed by no later than October 31, 2014. It requires that the State Bar “determine the manner by which to reduce the board of trustees from 23 members to 19 members ... pursuant to the election and appointment processes specified” The State Bar must develop this plan for implementing the transition by January 31, 2012, and submit a written report detailing that plan to the Committees on Judiciary by January 31, 2012. In addition, SB 163 requires that the State Bar continue to report annually to the Committees on Judiciary on its progress toward implementing this transition.¹³

SUMMARY OF THE LEGISLATIVE INTENT REGARDING THE TRANSITION FROM A 23- TO 19- MEMBER BOARD

On January 1, 2012, the Board of Trustees was composed of the 23 members who were elected or appointed to the board before the end of 2011. During the transition to a smaller board by October 31, 2014, the “board shall consist of no more than 23 members and no less than 19 members.”¹⁴ Business and Professions Code section 6011, subdivision (b), expressly provides:

It is the intent of the Legislature that the board consist of no more than 23 members and no less than 19 members during the period of transition from a 23-member board to a 19-member board, as described in Section 6009.7. It is the intent of the Legislature that the board, pursuant to the plan developed by the State Bar as described in Section 6009.7, gradually decrease its size without

¹¹ Bus. & Prof. Code § 6021, as amended Sb 163, § 26.

¹² Bus. & Prof. Code, § 6024, as amended SB 163, § 27.

¹³ Bus. & Prof. Code, § 6009.7.

¹⁴ Bus. & Prof. Code, § 6011, subd. (a).

shortening, lengthening, or abolishing terms commencing prior to December 31, 2011, with the ultimate goal of instituting a 19-member board no later than October 31, 2014, pursuant to Section 6009.

Similarly, Business and Professions Code section 6012, subdivision (a), states that “attorney members who were elected in 2009, 2010, or 2011 to serve for a three-year term commencing at the conclusion of the annual meeting held in those years shall be eligible to serve their full three-year terms.”

TRANSITION FROM THE 23- TO 19-MEMBER BOARD OF TRUSTEES BY OCTOBER 31, 2014

Parameters Under SB 163

Four seats on the board will be removed to reach 19 members before the statutory deadline of October 31, 2014, through (1) the reduction of the number of current 15 elected attorney members and their replacement by the new 13 elected or appointed attorney members (2) the elimination of the California Young Lawyers Association (CYLA) representative, and (3) the removal of the separate seat for the President of the State Bar.¹⁵ The three-year terms of the 13 new elected or appointed members will begin at the conclusion of the State Bar’s annual meetings in 2012, 2013, or 2014.¹⁶ The next three annual meetings are scheduled to conclude on October 14, 2012, October 13, 2013, and September 14, 2014.

The elections of the 15 current attorney members were staggered, with five members elected to three year terms in 2009, 2010, and 2011. With the expiration of their respective terms and the one year terms of the current CYLA representative and the State Bar president, there will

¹⁵ Before SB 163, the State Bar president was a separate 23rd seat on the board in addition to the other 22 board members. (Bus. & Prof. Code, § 6011, as amended Stat. 1985, ch. 465, § 1.) After the transition, the president must be one of the 19 board members. (Bus. & Prof. Code, §§ 6011, 6021, as amended SB 163, §§ 10, 26.)

¹⁶ The terms of the new 13 attorney members “shall commence at the conclusion of the annual meeting next succeeding his or her election or appointment, and he or she shall hold office until his or her successor is elected or appointed and qualified. For the purposes of this section, the time intervening between any two successive annual meetings shall be deemed to be one year.” (Bus. & Prof. Code, § 6016, as amended by SB 163, § 21.)

be seven vacancies in 2012, five in 2013, and five in 2014.¹⁷ As these terms expire, they will be replaced by the election or appointment of the 13 new attorney members under SB 163—who together with the six public members¹⁸ will make up the 19 member board.¹⁹ The principal issue affecting the State Bar in implementing a gradual transition was the number and order for the elections or appointments of the new members during the transition period.

After SB 163 was enrolled and chaptered, five proposals for determining the order of the elections and appointments were prepared by an outside consultant, Michael Wagaman, and presented to a subcommittee of the State Bar’s Board Committee on Planning, Program Development and Budget (PPDB) on October 10, 2011²⁰, and to the full committee on November 3, 2011.²¹ At its meeting, PPDB authorized a 45-day public comment period for the proposal that included provision for the sequence for elections in six new State Bar Districts to be determined by a random process. On December 21, 2011, PPDB recommended and the

¹⁷ The elections of the 15 attorney members were staggered with five elected each year to three year terms. (Bus. & Prof. Code, § 6017, repealed by SB 163, § 22.)

¹⁸ The appointments of the six public members to three year terms, which are unchanged by SB 163, are also staggered—with the appointment of two of the six members every three years. (Bus. & Prof. Code, § 6013.5.)

¹⁹ There is a possible impediment to instituting the 19 member board by October 31, 2014. After the transition, the president and other officers of the State Bar all will be elected from among the 19 trustees and will serve while on the board (similar to a municipality where the mayor is selected and rotated each year from among members of the city council). However, a member of the current board in his or her third or final year in 2014 may seek to serve a fourth and additional year on the board as the president. Before Business and Professions Code section 6021 was amended by SB 163 (*ante*, fns. 11, 15), the president was elected from among those members in the third and final year of their term. The intent was to provide for a fourth year presidency, with the president serving an additional year in a separate office on the board as its 23rd member. (Sen. Com. on Judiciary, Analysis of Sen. Bill No. 818 (1985-1986 Reg. Sess.) as amended May 15, 1985, p. 4.) As noted above, the expressed intent of SB 163 is not to shorten, extend or abolish the terms of the current members or to force anyone to resign in order to institute the 19 member board. Thus if one of the current members still in office in 2014 was elected president and then able to extend his or her term to a fourth year, there would be a 20th member in addition to the other 19 trustees who have been elected or appointed to serve on the board.

²⁰ The agenda and the written materials presented to the PPDB Governance Transition Plan Subcommittee at its meeting on October 10, 2011, may be found at <http://board.calbar.ca.gov/Agenda.aspx?id=10491&tid=0&show=100005184#10007788>.

²¹ The agenda and written materials presented to PPDB on November 3, 2011, may be found at <http://board.calbar.ca.gov/Agenda.aspx?id=10509&tid=0&show=100005264#10008089>.

Board of Governors, in its last meeting under that name, approved the following plan to transition to the 19 member Board of Trustees.²²

Transition Plan

Sequence Of The Elections Of The Six Attorney Members

The staggered election of attorney members is retained in this plan. Beginning in 2012, two of the six attorney members will be elected each year, each to a three-year term from the new State Bar Districts based on California's six court of appeals districts. The sequence by which two districts would hold elections every three years was determined randomly in the open session of the meeting of the Board on December 21, 2011. As determined by the random drawing, the sequence for election of the six new board members will be:

- One member each from the new State Bar Districts based on court of appeal districts 4 and 5 in 2012 and every three years thereafter;
- One member each from the new State Bar Districts based on court of appeal districts 1 and 3 in 2013 and every three years thereafter;
- One member each from the new State Bar Districts based on court of appeal districts 2 and 6 and 2014 and every three years thereafter.

Proposal For The Sequence Of The Five Supreme Court Appointments

The Supreme Court is currently considering options for the timing and number of appointments over the three year transition period and the selection process it will use to make its appointments.

Proposal For The Sequence Of The Two Legislative Appointments

It is anticipated that both Legislative appointments will be made in either 2012 or 2014. In 2013, the Senate Rules Committee and the Speaker of the Assembly will make appointments

²² The board's agenda and PPDB report and recommendation may be found at <http://board.calbar.ca.gov/Agenda.aspx?id=10529&tid=0&show=100005449&s=true#10008426>.

to fill vacancies for the two public members who serve on the board that will occur at the conclusion of the State Bar's annual meeting that year.²³

Summary of the Transition

The following table illustrates the manner in which the State Bar will transition gradually from a 23 to a 19 member board of trustees by a combination of staggered elections and appointments of the new attorney members:

Year			2011	2012	2013	2014
Total			23	21	20	19
President	Elected		1	0	0	0
	Subtotal		1	0	0	0
Attorney Members	Elected	By 9 Former Districts	15	10	5	0
		By 6 new Districts	0	2	4	6
		CYLA	1	0	0	0
	Appointed	Court	0	1	3	5
		Legislature	0	2	2	2
	Subtotal		16	15	14	13
Public Members	Appointed	Governor	4	4	4	4
		Legislature	2	2	2	2
	Subtotal		6	6	6	6

** This table assumes that the Court would appoint one attorney member in 2012, two in 2013 and two in 2014 and that Legislature would appoint two attorney members in 2012. Other combinations within the discretion of the Court and Legislature are possible.*

Amendments to The Rules Of The State Bar

On November 4, 2011, the State Bar began amending its rules to comply with the changes in SB 163, effective January 1, 2012. This included Rule 6.30 of the Rules of the State Bar to delete the old nine State Bar Districts and replacing them with the six new Districts under SB 163.²⁴ As revised, Rule 6.30 states:

²³ Bus. & Prof. Code, § 6013.5.

²⁴ Bus. & Prof. Code, § 6012, as added by SB 163, § 11, reads:

(a) State Bar Districts, as they existed on December 31, 2011, pursuant to Section 6012.5, as added by Chapter 1223 of the Statutes of 1989, shall cease, pursuant to the act that added this section, for purposes of the

Rule 6.30 Composition

A qualified member of the State Bar may elect one attorney member of the board from his or her district.

- (A) District 1 is the counties of Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Solano, and Sonoma.
- (B) District 2 is the counties Los Angeles, San Luis Obispo, Santa Barbara and Ventura.
- (C) District 3 is the counties of Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yolo and Yuba.
- (D) District 4 is the counties of Imperial, Inyo, Orange, Riverside, San Bernardino, and San Diego.
- (E) District 5 is the counties of Fresno, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare, and Tuolumne.
- (F) District 6 is the counties of Monterey, San Benito, Santa Clara, and Santa Cruz.

Other amendments approved on November 4, 2011, included mostly changes in the name of the governing board on January 1, 2012, to the Board of Trustees.²⁵

election of attorney members of the board. However, attorney members who were elected in 2009, 2010, or 2011 to serve for a three-year term commencing at the conclusion of the annual meeting held in those years shall be eligible to serve their full three-year terms.

(b) Commencing on January 1, 2012, State Bar Districts shall be based on the six court of appeal districts as constituted pursuant to Section 69100 of the Government Code, as they existed on December 31, 2011. The board shall provide for the election of six attorney members of the board from these six State Bar Districts as specified in Section 6013.2.

²⁵ See agenda and materials at

<http://board.calbar.ca.gov/Agenda.aspx?id=10508&tid=0&show=100005384&s=true#10008054>.

On December 21, 2011, at the meeting at which it approved and conducted a random drawing to determine the order for the elections in the new State Bar Districts, the board added the sequence to the Rules of the State Bar in the following rule:

Rule 6.31 Sequence of election of attorney members

The six attorney members of the board are elected as follows:

- (A) In 2012 and every three years thereafter, one member each from State Bar Districts 4 and 5.
- (B) In 2013 and every three years thereafter, one member each from State Bar Districts 1 and 3.
- (C) In 2014 and every three years thereafter, one member each from State Bar Districts 2 and 6.

CONCLUSION.

With the implementation of the staggered election of two of the six new attorney members beginning this year and the anticipation that both the Supreme Court and Legislature will stagger their appointments in the manner described above, the transition to the 19 member Board of Trustees will be instituted gradually and at the conclusion of the State Bar's annual meeting in 2014, as directed by SB 163.