

**STATE BAR ADMINISTRATIVE MANUAL
DIVISION 5**

**Chapter 1
LEGISLATIVE POLICIES AND PROCEDURES**

**Article 1 [NEW]
LEGISLATIVE POLICIES AND PROCEDURES FOR
LEGISLATIVE POSITIONS OF BOARD OF GOVERNORS
(Amended by the Board of Governors June 9, 2001)**

§1. *Vote on Legislative Positions*

- a. Consideration of a legislative position by the Board of Governors proposed for funding from the general fund shall proceed in the following order:
 - (1) An affirmative vote by a 2/3 majority of those present concerning whether the proposed legislative position is within the parameters established by the United States Supreme Court in *Keller v. State Bar of California*;
 - (2) If the vote is affirmative, a second affirmative vote by 2/3 of those present that the specific legislative political position is adopted.

(Source: Board of Governors' Resolutions, December 1999, April 2000, June 2001.)

- b. A legislative position by the Board of Governors proposed for funding from the lobbying deduction fund must be adopted by an affirmative vote by 2/3 of those present.

(Source: Board of Governors' Resolution, June 2001.)

§2. *Keller Parameters*

~~On an interim basis for the year 2000, A~~ll legislative positions taken by the Board of Governors funded from State Bar general funds shall be within the parameters established by *Keller v. State Bar*, 496 U.S. 1 (1990)

(Source: Board of Governors' Resolutions, December 1999, April 2000, June 2001.)

§3. Funding

- a. Legislative lobbying funded by the mandatory portion of the annual membership fee is restricted to bills pertaining only to legislation fixing the annual membership fee, the State Bar's functions in professional regulation and ethics, or the State Bar's administration and operations.
- b. Legislative positions taken onto the Board of Governors' legislative program are funded solely from State Bar funds. This subdivision cannot be amended or repealed without notice to the Executive Committee of the Conference of Delegates.

(Source: Board of Governors' Resolution, August 2000, February 2000, December 2000 *California Bar Journal* notice of State Bar legislative positions and policies.)

Article 4 2 LEGISLATIVE POLICIES AND PROCEDURES FOR SECTIONS AND COMMITTEES TO PROPOSE POSITIONS ON BILLS OF OTHERS

§41. *Review of Sections and Committees Affirmative Legislation Proposals*

- a. Each affirmative legislative proposal of sections and committees shall be delivered to the ~~Director, Office of Research~~ staff designated by the Executive Director, either:

(1) Sixty (60) days before the meeting of the ~~Board Committee on Legislation [Courts and Legislation]~~ Board Committee on Legislative and Court Relations, or successor committee, at which it will be submitted if it will be submitted other than at the first board meeting of the board year following the organization meeting

(2) On or before August 1, if it is to be submitted at the first board meeting of the board year following the organization meeting to the ~~Board Committee on Legislation [Courts and Legislation]~~ Board Committee on Legislative and Court Relations, or successor committee.

The proponent shall identify a permanent contact person to whom sections and committees may direct comment. The proposal shall identify the date of the board committee meeting at which it will be submitted.

- b. ~~The Director of the Office of Research~~ Staff designated by the Executive Director shall circulate the proposal to all sections, all committees, the Executive Committee of the Conference of Delegates, and the Office of Governmental Affairs. Any section or committee may request copies of all proposed amendments.

- c. The only exception to this rule is legislation regarding which true urgency exists, and in case of urgency, the proponent shall, when the proposal is delivered to the ~~Board Committee on Legislation [Courts and Legislation]~~ Board Committee on Legislative and Court Relations, or successor committee, also deliver it to the Legislative Coordinator for Sections and Committees, the Office of Governmental Affairs, ~~the Director of the Office of Research~~, the Executive Committee of the Conference of Delegates, all sections and those committees within the purview of which the proposal may fall.

(Source: Board of Governors' Resolutions, August 1986, October 1988, December 1989, June 1999, June 2001.)

§2. Time for Board Review of Section Affirmative Legislative Proposals

The board shall schedule a meeting of the board as soon as practical following the State Bar's Annual Meeting to consider section legislative program issues for the forthcoming year, with the goal of final approval by the board on or before October 31.

(Source: Board of Governors' Resolutions, January 1999.)

§2.3 Germaneness Standard for Sections

A section may use voluntary dues to take positions on bills of others or make affirmative legislative proposals that are germane to the designated practice area of the section, and pursuant to the authority granted under Business and Professions Code section 6031, under the following germaneness standard:

- a. The matter is necessarily or reasonably related to the regulation of the legal profession or improvement of the quality of legal services available to the people of the state, or
- b. The matter requires the special knowledge, training, experience or technical expertise of the section, or
- c. The position advocated, while not specifically related to the regulation of the legal profession or improvement of the quality of legal services, would promote clarity, consistency or comprehensiveness in the law.

(Source: Board of Governors' Resolutions, December 1990, January 1991; Bus. & Prof. Code §6031.)

§1.4. Review of Proposed Positions on Bills of Others Approval by General Counsel and Office of Governmental Affairs

- a. A copy of a proposed position of a section/committee must be sent to General Counsel, in addition to the current recipients of proposed positions [Office of Government Affairs, and the liaison from the Board Committee on

Legislative and Court Relations, or successor committee, and Director of the Office of Research]; no proposed position shall be transmitted to a legislative body or official or government agency or official unless, at a minimum, it is approved by the Office of General Counsel and the Office of Governmental Affairs; this review should occur within five (5) business days; reviewers shall have the authority not to transmit proposed positions based upon a judgment that the State Bar should not take a position on a particular bill.

- b. The above procedure applies to a proposed position of a section/committee on a state or federal bill of others or on a public agency rule, regulation or guideline. It also applies to a section/committee response to a request of a legislator or agency official for comment on a specific bills, rule, regulation or guideline. The text or outline of section/committee testimony on a bill of others or a proposed agency rule, regulation or guideline shall also be approved pursuant to these procedures, if a section/committee proposed written position on the same subject has not been previously approved pursuant to these procedures.
- c. Sections may attend meetings of the California Law Revision Commission and comment verbally and in writing upon drafts of proposed legislation prepared by the Commission without being required to submit to the five-day review by General Counsel, or other reviewers, generally required for positions on bills of others.
- d. Proposed letters regarding bills of others on which a section or committee takes no position, but offers technical comments only, may be transmitted to the Legislature if none of the required reviewers (Liaison from the Board Committee Legislative and Court Relation, or successor committee; Office of Governmental Affairs; General Counsel; Director of the Office of Research) objects to its transmittal within five (5) business days.

(Source: Board of Governors' Resolutions, December 1990, January 1991, August 1991; Board Committee on Legislative and Court Relations charter, June 2001.)

§5. Disclaimers

Legislative positions taken by State Bar entities must include the following disclaimers, in boldface type:

- a. For sections:

The position is only that of the _____ SECTION of the State Bar of California. This position has not been adopted by either the State Bar's Board of Governors or overall membership, and is not to be construed as representing the position of the State Bar of California.

Membership in _____ Section is voluntary and funding for section activities, including all legislative activities, is obtained entirely from voluntary sources.

- b. For legislative positions resulting from legislative activities of committees and other State Bar entities that are paid for from the general fund:

This position is only that of the State Bar of California's [STANDING COMMITTEE ON _____]. This position has not been adopted by the State Bar's Board of Governors or overall membership, and is not to be construed as representing the position of the State Bar of California.

- c. For legislative positions resulting from legislative activities of committees and other State Bar entities that are paid for from the lobbying deduction fund:

This position is only that of the State Bar of California's [Standing Committee on _____]. This position has not been adopted by the State Bar's Board of Governors or overall membership, and is not to be construed as representing the position of the State Bar of California. Committee activities relating to this position are funded from voluntary sources;

- d. For positions resulting from Board of Governors' legislative activities paid for from the lobbying deduction fund:

Board of Governors' activities relating to this position are funded from voluntary sources.

(Source: Board of Governors' Resolutions, December 1999, February 2000, April 2000, April 2001.)

§6. *Funding of Legislative Activities of Committees and Certain Other State Bar Entities*

- a. ~~On an interim basis, the~~ legislative activities of committees and other State Bar entities that receive funding from the general fund, other than legislative activities pertaining to fixing the annual membership fee, the State Bar's functions in professional regulation and ethics, or the State Bar's administration and operations, shall be paid for out of the fund created by calculating the product of the number of members who choose not to take the lobbying deduction, multiplied by \$5 ("lobbying deduction fund");
- b. To the extent funds are available in the lobbying deduction fund, all legislative activities of committees and other State Bar entities that receive funding from the general fund shall be paid for out of the lobbying deduction fund

(Source: Board of Governors' Resolution, April 2001, June 2001.)

§7. Standards and Guidelines for Legislative Activities of Committees and Certain Other State Bar Entities Funded from the Lobbying Deduction Fund

- a. Legislative activities paid for out of the lobbying deduction fund of committees and other State Bar entities that receive funding from the general fund must be germane to the charge of the committee or other entity and meet the following germaneness standard:
 1. The matter is necessarily or reasonably related to the improvement of the quality of legal services available to the people of the state; or
 2. The matter is related to the improvement of the functioning of the courts, judicial efficacy and efficiency;
- b. In interpreting this germaneness standard, the following guidelines should be applied:
 1. Legislative comments should reflect the special knowledge, training, experience or technical expertise of the State Bar entity;
 2. Involvement in or comments on legislative matters that are ideological or highly controversial or divisive within the bar or the society are disfavored;
 3. The potential impact of comments and other legislative activities of the State Bar entity on the State Bar and the rest of the bar's legislative program should be considered;

(Source: Board of Governors' Resolution, April 2001.)

§7. Evaluation of Interim Policies

The interim policies set out in sections 6 and 7 shall be evaluated upon completion of the current legislative session.

(Source: Board of Governors' Resolution, April 2001.)