



THE STATE BAR OF CALIFORNIA

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DATE: August 25, 2009

TO: Members, Board Committee on Operations

FROM: Lawrence Yee, Acting General Counsel
Dina Goldman, Attorney, General Counsel

SUBJECT: Amendment to Rule of the State Bar 6.31, District Adjustments - Release for Public Comment

EXECUTIVE SUMMARY

Board authorization is sought to release for public comment proposed revisions to Rule 6.31 of the State Bar Rules regarding Board Elections. The proposed revisions amend timing requirements for redistricting in the rules to conform more closely with the statutory deadline of July 1, 2010.

Business and Professions Code section 6012.5 provides that beginning July 1, 1990, and every 10 years thereafter, the Board of Governors shall adjust the counties included in State Bar districts for Board of Governors elections to provide for election of attorney members to the Board. While the statute contemplates that redistricting shall be completed on July 1 of 2010, Rule 6.31 of the State Bar Rules, which incorporated timing under the old Rules and Regulations of the State Bar, would require that the redistricting be completed no later than February 1, 2010, the first date on which Nominating Petitions are made available. This item proposes that Rule 6.31 be amended to correct an oversight when the election rules were amended and to conform the deadline for completing redistricting with the statutory timing.

Staff recommends and requests that the committee release the proposed revisions for a forty-five day public comment period. The comment period would run from September 8, 2009 through October 23, 2009. If comments do not require substantive changes to the proposals, the revised rule can then be adopted by the Board.

BACKGROUND

Timing for Redistricting

Business and Professions Code section 6012.5, added in 1989 by Statutes 1989, chapter 1223, requires the Board of Governors to adjust the counties included in State

Bar districts for election of attorney-members of the Board beginning July 1, 1990, and then every subsequent 10 years. Specifically, section 6012.5 provides:

Notwithstanding any other provision of law, beginning July 1, 1990, and every 10 years thereafter, the board shall adjust the counties included in the State Bar Districts as they existed on June 30, 1999 and shall provide for the election of attorney members of the board from those districts.

Thus, the statute requires the Board to review and adjust the counties in 2010 by July 1. At the time that section 6012.5 was passed, the Board of Governors added provisions to the State Bar Rules and Regulations to implement the statute. The relevant section of the Rules and Regulations required the board to adjust the counties in a year in which redistricting was required before the first day on which the form for Nominating Petitions was made available. At that time, the rules provided that Nominating Petitions had to be prepared not earlier than 150 days before the Annual Meeting; for example, in 2000 when redistricting was last required, the first day for Nominating Petitions fell on April 17. In 2002, the rules were amended to provide for an earlier date for the availability of nominating petitions. However, the effect of this earlier date for commencing of board elections on the redistricting process was overlooked. When the Rules and Regulations were revised and incorporated into Title 6 of the new State Bar Rules, the timing provision regarding redistricting was carried forward in Rule 6.31.

Under the current version of the State Bar Rules, Nominating Petitions must be prepared by February 1, 2010. In order to comply with a February 1 deadline, and also meet deadlines for preparation of ballots and election materials imposed by our election vendor, the redistricting process would have to be almost entirely completed by the end of this year. The proposed amendment to Rule 6.31 would allow additional time for the redistricting process and for public comment on the redistricting proposal ultimately recommended by the Board. To remedy the discrepancy between the statutory requirement for completion of redistricting and the timing required by the rules, this item recommends an amendment to Rule 6.31.

RECOMMENDATIONS

Staff recommends release for a 45-day public comment period an amendment to Rule 6.31 to clarify that the Board's review and adjustment of counties for State Bar districts would be completed on or before July 1 of the year in which redistricting is required by section 6012.5, and that the realigned districts apply to the election in the following year. For this year, this would allow the redistricting process to be completed by July of 2010 and in place for the 2011 election. The proposed rule revision is attached as Exhibit A.

FISCAL IMPACT

None.

BOARD BOOK IMPACT

Tab 4.

PROPOSED BOARD COMMITTEE ACTION

Should the Board Committee accept the recommendation of staff, adoption of the following resolution would be appropriate:

RESOLVED, that the Board Committee on Operations authorizes for publication, in the form attached, for a forty-five day comment period from September 8, 2009 through October 23, 2009 the proposed revisions to Rule 6.31 regarding Board of Governors elections.

FURTHER RESOLVED that publication of the foregoing is not, and shall not be construed as, a recommendation of approval by the Board Committee.

Attachments:

A: Proposed revision to Rule 6.31 of the State Bar Rules