

AGENDA ITEM

JULY 134
Business Law Section
Bylaw Change

DATE: July 19, 2007
TO: Board Committee on Member Oversight
FROM: Pam Wilson, Director, Section Education and Meeting Services
RE: Business Law Section Bylaw Change

BACKGROUND:

The Business Law Section Executive Committee would like to amend its section bylaws to clarify conformity with the Rules and Regulations of the State Bar and Resolutions of the Board of Governors and to restate the bylaws as thus amended in their entirety to avoid any uncertainty as to the authoritative form of the bylaws. The Executive Committee believes this to be a prudent step of good corporate governance, as varying forms of the bylaws have been provided to members of the section in recent years through website postings. While those forms are substantively identical in most aspects, the Executive Committee is concerned that even minor differences between them could give rise to potential confusion. The Executive Committee has provided the separate annotation of the bylaws (set forth below) specifying the sources of existing bylaw provisions as identified to it by the staff and the reasons and sources of authority for the amendments adopted by the Executive Committee subject to approval of the Board of Governors.

FISCAL/PERSONNEL IMPACT:

No impact to the General Fund.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT:

Should a resolution pass, the Administrative Manual would require revision.

RESOLUTION:

Should the Board Committee on Member Oversight agree with the request of the Executive Committee of the Business Law Section, the following resolution would be in order:

RESOLVED, the Board Committee on Member Oversight, upon the recommendation of the Executive Committee of the Business Law Section, recommends that the Board of Governors approve amendments to the Business Law Section bylaws as follows, and restatement of the full text following approval of such amendments:

BYLAWS OF THE BUSINESS LAW SECTION
(as approved by Resolution of the Board of Governors July xx, 2007)

§1. Name

This organization shall be known as the "Business Law Section of the State Bar of California," hereinafter referred to as the section.

§2. Purposes and Duties

The purposes of the section shall be (a) to further the knowledge of the members of the section in the law affecting businesses, including such areas as corporations, partnerships, unincorporated business organizations, banking, bankruptcy and debtor/creditor relations, commercial matters, agri-business, insurance, franchises, and litigation practice particularly related to such law, (b) to assist, when called upon by the Board of Governors of the State Bar of California, in the formulation, administration and implementation of programs, forums, and other activities for the education of members of the State Bar in business law, (c) to act upon all matters germane to its purposes as so described or referred to it by the Board of Governors, and (d) to make recommendations to the Board of Governors.

§3. Membership

The term of membership in the section shall be for a period of one (1) year commencing on the last day of the Annual Meeting of the State Bar. Upon request and upon payment of the prescribed fee, if any, for such yearly period, a member of the State Bar or judge of a court of record shall be enrolled as a member of the section. Such fees may be prescribed by the Board of Governors and shall be paid into the treasury of the State Bar to be used for the purposes of defraying costs and expenses for the section. Within the meaning of these bylaws, the time intervening between successive annual meetings is deemed to be one (1) year. Associate member status in the section in the following categories shall be permitted upon payment of the dues prescribed by the Board of Governors: (a) law students and (b) individual associates.

§4. Executive Committee

- a. Duties: The section shall be governed by an executive committee. The executive committee shall assist the Board of Governors in matters relating to the section and all other matters referred to the executive committee by the Board of Governors. The executive committee shall supervise and direct the affairs and policies of the section, subject to and in accordance with these bylaws, policies of the Board of Governors, the *Rules and Regulations of the State Bar* and the State Bar Act.
- b. Members: The executive committee shall consist of 15 members appointed by the Board of Governors, except that the executive committee shall consist of additional up to two (2) additional members in any year in which (for a maximum of 17) if a member is appointed by the Board of Governors to serve a fourth year an additional one-year term as Vice-Chair or Chair, or in any

~~year in which a member is appointed to serve a fifth year term as Chair~~pursuant to section 4.c. below. The Board of Governors may in its discretion appoint to the executive committee persons nominated by the section. Nominations for such appointments may be made by the executive committee acting as a nominating committee or by a petition signed by at least fifteen (15) members of the section. Petitions for such nominations shall be submitted to the executive committee on or before June 1 of each year. Each member of the executive committee shall take an oath of office and shall receive no compensation for services.

- c. Term of Office: Five (5) members of the executive committee shall be appointed each year for terms of three (3) years ~~each except to permit service as a chair, vice chair or chair elect in a fourth year, or as chair in a fifth year, except that a member may serve as an officer in a fourth year, or as chairperson or vice-chairperson in a fifth year, or as chairperson in a sixth year and that any such extension shall be a one-year term for such service in addition to the fifteen regular positions of three-year terms.~~ Any vacancy in membership occurring prior to the normal expiration of the term shall be filled by the Board of Governors for the unexpired term. The executive committee may recommend to the Board of Governors the removal and replacement of any executive committee member for failing to attend executive committee meetings on a regular basis, for failing to participate actively in the work of the executive committee, or for any other good reason.

The term of office of each member of the executive committee shall commence on the last day of the Annual Meeting of the State Bar.

- d. Meetings and Action Without a Meeting: Meetings of the executive committee will be governed by the Rules Governing Open Meetings, Closed Sessions and Records of Regulatory and Special Committees. ~~may be called by the chairperson or by a majority of the members of the executive committee. Written notice of such meetings shall be mailed to members of the Executive Committee at least five (5) days prior to such meeting or shall be given by telephone or, telegraph, facsimile or electronic transmission (including e-mail) at least two (2) daysforty eight (48) hours prior to such meeting. At meetings of the executive committee, the majority of its members then serving shall constitute a quorum for the transaction of any business of the committee.~~

~~The executive committee may act without a meeting by a poll of its members. In such event, no less than a majority of the members then serving must agree on any action taken. A poll of the members of the executive committee may be conducted by the chairperson by telephone, telegraph, mail, facsimile or electronic transmission (including e-mail).~~

Notwithstanding the provisions of this section, amendments of these bylaws shall be governed solely by the provisions of section 7, below.

- e. Officers: The Board of Governors shall appoint the initial chairperson, vice-chairperson and secretary of the executive committee and shall appoint such subsequent officers following consideration of recommendations made by the executive committee through procedures adopted by it. ~~Thereafter, w~~Within a ~~period of ninety-sixty (9060) days~~ period ending at the later of thirty (30) days prior to the meeting of the Board of Governors at which appointments of executive committee officers are to be made or otherwise on or before a date specified by the Executive Director of the State Bar of California for purposes of consideration by the Board of Directors at that meeting. ~~T~~The executive committee shall submit such recommendations to the Board of Governors for appointment of a chairperson, one or more vice-chairpersons, secretary and treasurer from among the committee members who shall at the time of assuming such office have served at least one year as a member of the committee.

The newly appointed chairperson, vice-chairperson and secretary shall assume the duties of their respective offices on the last day of the Annual Meeting of the State Bar following their appointment, and shall continue in office until their successors are appointed and assume office. In the event of a vacancy among the officers, the executive committee may recommend to the Board of Governors a successor to fill the unexpired term and may appoint on an interim basis, until action is taken by the Board of Governors, one of its members to discharge the authority and responsibility of the officer for which such vacancy has occurred.

The chairperson shall preside at all meetings of the section and the executive committee and shall administer the affairs of the section and committee subject to and in accordance with the State Bar Act, the *Rules and Regulations of the State Bar*, the policies of the Board of Governors, and these bylaws.

The secretary shall keep minutes of meetings of the section and executive committee and make suitable arrangements for annual meetings.

The vice-chairperson (or, if more than one has been appointed, the vice-chairperson selected by vote of the executive committee for that purpose) shall perform all the duties of the chairperson during the latter's absence or inability to act, and when so acting shall have all the powers of the chairperson and be subject to all the restrictions upon the chairperson.

§5. Committees

- a. Standing Committees: ~~There shall be the following nine (9) standing committees:—Corporations, Corporate Law Departments Committee, Debtor/Creditor Relations and Bankruptcy, Education and Newsletter, Financial Institutions, Legislation, Nominating, Partnerships and Unincorporated Associations, Uniform Commercial Code.~~ The executive committee shall have the power to create ~~other~~ standing committees of the

section from time to time and to disband them at its discretion. Members of such ~~other~~ standing committees shall serve at the pleasure of the executive committee.

- b. Officers: Each standing committee shall have a chairperson and vice-chairperson, and such other officers as may be required who shall be selected~~appointed~~ by, and serve at the pleasure of, the executive committee from among the members of such standing committee. ~~Such~~The officers of the standing committees shall have such powers and duties as the executive committee may from time to time determine.
- c. Ad Hoc Committees: The chairperson of the executive committee shall have the power, without the need for executive committee approval, to appoint such ad hoc committees of the section as are necessary for the purpose of furthering the objectives of the section~~it~~.
- d. Members of the Committees: The members of the standing and ad hoc committees of the section shall be selected from among the members of the section. The executive committee may, on recommendation of any standing or ad hoc committee or on its own initiative remove and replace any committee member for failing to attend committee meetings on a regular basis, for failing to participate actively in the work of the committee, or for any other good cause.

§6. Section Meetings

- a. Meetings and Notices: There shall be a section meeting at the time and place of the Annual Meeting of the State Bar. The section may also hold such other meetings as may be called by the executive committee upon notice given to the members of the section at least twenty (20) days prior to the meeting. Notice of meetings shall be given by mail (or, if provided by a member for purposes of receiving notices from the State Bar, by e-mail) or in an official publication of the State Bar.
- b. Quorum: The members of the section present at any meeting for which notice has been given pursuant to section 6.a. above shall constitute a quorum for the transaction of business.
- c. Rules of Order: All meetings of the section shall be conducted in accordance with prevailing best practices of corporate governance, informed by procedures set forth in Robert's Rules of Order, Newly Revised or such successor edition thereof as is generally accepted for such purpose.

§7. Amendments to Bylaws

These bylaws may be amended by the executive committee by two-thirds (2/3) vote of its entire membership at a meeting duly called for the purpose of considering such amendment provided that no amendment shall take effect until approved by the Board of Governors.

The bylaws and any amendments thereto shall be filed by the executive committee with the office of the Secretary of the State Bar ~~at its San Francisco office.~~