



THE STATE BAR OF CALIFORNIA

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DATE: March 24, 2008

TO: Members of the Board Committee on Operations

FROM: Marie M. Moffat, General Counsel
Lawrence C. Yee, Chief Assistant General Counsel
Victor Rowley, Rules Rewrite Consultant
Cynthia A. Abramov, Assistant General Counsel

RE: Rules of the State Bar, New Title 6 – Request for Public Comment

EXECUTIVE SUMMARY

In this item, the Board Committee on Operations would approve for a 45-day public comment period the release of proposed amendments (Attachment A) that would add new Title 6 to the Rules of the State Bar. The matter will then be reported and presented to the committee for action at the May 2008 meeting.

DISCUSSION

As part of the State Bar's Rules Rewrite Project, Title 6, as now proposed, would incorporate and supersede the various existing rules and regulations pertaining to the Governance of the State Bar, now found in Rules and Regulations of the State Bar of California, Articles II [Nomination and Election of Governors], IIA [Appointment and Special Election of Governors], IIB [State Bar Districts], III [Responsibilities of Officers], IV [Meetings of the Board of Governors], X [Offices of the State Bar], XI [Filing Papers with and Serving the State Bar], XII [The Seal of the State Bar], and XIV [General Provisions Re: Committees, Conferences, Associations, Sections and Officers], as well as Rules Governing Open Meetings, Closed Sessions and Records of Board of Governors of the State Bar of California. Changes to existing rules governing the annual and special meetings of the State Bar, open meetings of State Bar committees, and conflicts of interest

are reserved for future amendments. Except as noted, the proposed amendments in Title 6 are stylistic—simplifying language, deleting needless words and redundancies, replacing “legalese” with plain English—and not intended to be substantive. The three proposed substantive changes are as follows:

- **Deletion of the “common disaster” rule**

Rules and Regulations of the State Bar of California article IIA, section 5, presently provides the manner for selecting an interim board by the California Supreme Court in the event of a “common disaster,” resulting in either nine or no survivors on the Board of Governors. As suggested by the board committee, this rule is omitted, leaving action to the discretion to the Court under its inherent authority.

- **Meetings of the Board of Governors outside of California**

Currently, Rules and Regulations of the State Bar of California article IV, section 2, requires the unanimous written consent by all board members before a regular or special meeting of the board may be held outside of the state. In proposed Title 6, Rule 6.50(D) would change that requirement to a two-thirds vote of the board.

- **Shortened notice of meetings**

Under existing provisions of the State Bar’s open meeting rules, notice of meetings of the board and board committees must be given 10 days before the date of the meeting. Rules Governing Open Meetings, Closed Sessions and Records of Board of Governors of the State Bar of California art. 2, § 2. Proposed Rule 6.50(A) in the new Rules of the State Bar would shorten that period to five days. Other governmental entities have similar or shorter periods. Local governmental bodies must give notice 72 hours before a meeting under the Ralph Brown Act. Cal. Gov. Code § 54954.2(a). State bodies have a ten-day requirement under the Bagley-Keene Act. Cal. Gov. Code § 11125(a). And the California Judicial Council gives seven days notice of business meetings. Cal. R. Ct. 10.5(c). The proposed five-day period is for public comment, and after public comment, the board committee may elect to retain the ten days or provide for some other shorter period.

DURATION OF PUBLIC COMMENT PERIOD & REASON

Members are being asked to approve release of these proposed amendments for a 45-day public comment period under Rule 1.10(A) of the Rules of the State

Bar, as amended March 7, 2008. Except as noted, most of the proposed amendments are stylistic and not substantive warranting a public comment period greater than 45 days.

EFFECTIVE DATE OF PROPOSAL

May 16, 2008, if there are no material modifications after public comment.

PROPOSED BOARD COMMITTEE RESOLUTION

Should the Board Committee on Operations agree with the proposed recommendation, adoption of the following resolution would be appropriate.

RESOLVED, that the Board Committee on Operations hereby authorizes release for a 45-day public comment period the attached proposed amendments to add new Title 6 to the Rules of the State Bar; and it is

FURTHER RESOLVED, that this authorization for release for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed item.