

AGENDA ITEM

JULY 144

State Bar *Long Range Strategy* –
Return from Public Comment

Date: June 26, 2008

To: Board Planning, Program Development, and Budget Committee
Board of Governors

From: Danni Murphy, Chair Planning, Program Development,
and Budget Committee

Re: State Bar *Long Range Strategy* – Return from Public Comment

Summary

The Board Planning, Program Development, and Budget Committee (PPDB) met on April 17, 2008, to consider/discuss the draft "*Long Range Strategy*," which had been distributed to the committee on March 25, 2008. The committee was generally pleased with the draft document and found it to be a more simplified and streamlined document.

The committee was also amenable to an adoption process that obviated the need to repeat the past strategic plan development process which involved a series of facilitated issue meetings with participation by the Board, stakeholder, constituents, and staff. This lengthy and in-depth process took almost two years to complete (2002- 2004).

At its May 15, 2008 the committee authorized publication of the *Long Range Strategy*, attached to this memorandum, for a 45-day public comment period, ending on June 30, 2008. The *Long Range Strategy* is now before PPDB and Board to consider upon return from public comment. (Attachment 1)

BACKGROUND

Long Range Strategy

The draft *Long Range Strategy* document was created by revisiting existing strategic planning documents in order to simplify and clarify the structure, as well as reflect the noteworthy and important values articulated in the existing plan. The draft includes the current State Bar strategies and mandates.

The intended goals for revising the Strategic Plan were to:

1. Simplify and streamline its overall structure;
2. Provide for both a *Long Range Strategy* and a year-to-year Special Focus Areas (i.e., Board Annual Planning Session);
3. Articulate both a vision and operational strategies that can be implemented;
4. Separate big-picture Board-level strategy (Vision/Policy) from administrative detail;
5. Continue to integrate the planning and budget processes.

It is essential that we have a plan in place to integrate planning and budget processes. In 2007, one of the State Auditor's recommendations was that the State Bar develop a budgeting process methodology using the strategic plan. In response to the Auditor's recommendation, State Bar finance staff developed and implemented a new State Bar budget development process that links departmental budgets to departmental plans. The 2008 budget aligned the Bar's departmental and functional structures and presented basic workload and performance information in the Bar's major program areas. With the 2009 budget, we continue to develop and report performance measures and activity measures for the Bar's major programs. The proposed *Long Range Strategy* sets out the principal goals by functional areas, and links them to the Bar's internal organizational and programmatic structure, and also to the budget process.

BOARD ADVISORY COMMITTEE WORK PLANS

Adoption of the *Long Range Strategy* and the Strategic Planning Documents -- **Implementation Plan, Annual Budget, and Annual Report** -- repeals the policy statements related to the "advisory committee work plans" and TAB 19, Article 1, Section 11, of the Board Book in the manner set forth in Attachment 2.

Background

Historically, the State Bar has operated with a number of "Standing Committees" (e.g. Committee on the Administration of Justice, Committee on Group Insurance) that have focused on specific issues. The State Bar also works with a number of other entities, including commissions and boards (e.g., California Commission on Access to Justice, Legal Services Trust Fund Commission, and California Young Lawyers Association Board of Directors). The role of these various advisory committees has been to advise the Board on specific issues within their charge and recommend Board action as each entity determines appropriate.

For the last four years the State Bar advisory committees have prepared annual work plans to accomplish two things: (1) to alert the Board to the kinds of issues and projects these advisory committees are proposing to undertake, and (2) to ensure

that the resources they are using are in alignment with and will help to accomplish the State Bar's Long-range Strategic Plan and priorities articulated by the Board.

The work plans were intended to cover a period of one year, but the advisory committees have submitted their plans two years in advance. For instance, the fiscal year 2009 "Proposed Work Plan" would have been submitted by January 31, 2008, so that the Board could consider the advisory committee's recommendations and approve or redirect the use of its resources during the budget development process for fiscal year 2009.

The "Proposed Work Plans" which have been developed annually to assist the Board in developing a proposed budget for the following year will no longer be required, because the budget process now identifies the resources allocated and includes annually updated workload and performance data for each of the Bar's service areas, offices, and the advisory committees.

What will remain of the work plan process is the continued oversight by the Board committees: Member Oversight, Regulation Admissions and Discipline, and the Stakeholder Relations. These oversight Committees are responsible for assessing the accomplishments of the State Bar advisory committees, tracking progress identifying areas for improvement, and recognizing/rewarding performance.

In addition to an "annual report," each State Bar advisory committee must periodically report to the Board committee with oversight responsibility on its continuing work and must provide status reports on activities as requested by the Board oversight committee.

Timing of submission

Pursuant to the Advisory Committee Work Plan Review Process and Criteria (Supported by the Board of Governors July 24, 2004) work plans were to be produced and distributed to the Board prior to and for use at the annual January planning session. Over the years this has proved impractical, as the work plans were produced and distributed during the holiday season; when both staff and Board were mostly unavailable. Consequently, this left little time prior to the planning session for review or assessment. Additionally, recent planning sessions have focused on other board priorities, precluding work plans assessment as an essential component. Lastly, the existing planning cycle overemphasizes the advisory committees at the expense of the bar's other functional areas, particularly, since the resources allocated to them are minimal.

Shifting the due date to January 31, keyed "annual report" submission to the first meeting of the year (March), provided more time for consideration by the Board, and aligned the annual reports with the coming year budget development process.

TAB 19 of the Board Book: Standing and Special Committees, Article 1, Section 11 Annual Reports is being revised to reflect the shift to January 31 and revised advisory committee reporting -- Where the requirement for “annual report” submission reflected the Board/Committee year (September - September), it will now reflect our fiscal year (January - December).

PUBLIC COMMENTS RECEIVED IN RESPONSE TO *LONG RANGE STRATEGY* PUBLIC COMMENT PERIOD

State Bar Sustainability Task Force

To date we have received only one comment from the State Bar Sustainability Task Force (Task Force) (attachment 3). Any comments received after publication of this memo, will be distributed at the July 10 meeting of the PPDB Committee.

The Task Force was created in March 2008 at the request of the President. Its primary goal is to increase the environmental sustainability of law office practices in California with secondary goals of educating California bar members about environmental sustainability and improving environmental performance of California courts. A tertiary goal is recommending standards for incorporating sustainability by other rulemaking bodies.

The Task Force is recommending the addition of sustainability concepts to the “Mission,” “Vision,” and “Values” sections as well as incorporation of “specific” sustainability goals into the sections under “State Bar Goals by Functional Areas.”

Mission

The Task Force is recommending that the Mission of the State Bar be amended in the following manner:

The purpose of the State Bar of California is to ensure that the people of California are served by the legal profession ~~in manner~~ in an environmentally sustainable manner consistent with the highest standards of professional competence, care, and ethical conduct; to carry out such additional programs as may be required by law or by rule of court; and to contribute generally to the science of jurisprudence and the administration of justice to the extent and in a manner consistent with the First Amendment rights of its members.

Comment:

As currently drafted the “Mission of the State Bar” focuses on the purposes which have been articulated by various authorities at various points in time: Public Protection, Competence, Ethics, Mandates, Jurisprudence, and the Administration of Justice. The Task Force’s standards for environmentally sustainable law practice,

for voluntary adoption by State Bar members, are not within the State Bar's core mission functions any more than is the societal issue of diversity. Like diversity, environmentally sustainable goals will improve the "administration of justice." But under court holdings these are not within the mission of the State Bar unless directly connected to the practice of law and the advancement of the legal profession.

Given the voluntary nature of Task Force's standards for environmentally sustainable law practice it would not be appropriate to include "sustainability" as a core mission, purpose or broader goal for the State Bar's existence, which is largely defined by statute or court rule. However, it is appropriate to "vision" a future "sustainable" identity and relate that "vision" to some form of achievement if successful.

Vision

The Task Force is recommending addition of the following bullet point to the Vision of the State Bar:

"A legal profession that recognizes that environmental protection, climate change, and related environmental and social issues are important global and local matters, and that recognizes that each member of the State Bar can take steps to reduce the environmental impacts of law practice."

Comment:

The Task Force's standards for environmentally sustainable law practice, *for voluntary adoption by State Bar members*, like diversity, is within the State Bar's vision for improving the "administration of justice." It is not a core mission, but a secondary impact. Language such as ". . . *environmental protection, climate change, and related environmental and social issues* . . ." overstate and stray too far from the Bar's role in "improving the administration of justice and ensuring the rule of law in our civil society." As noted above, it is appropriate to "vision" a future "sustainable" State Bar identity.

Addition of the following bullet point to the Vision of the State Bar is recommended:

"A legal profession that serves the people of California in an environmentally sustainable manner."

Values

In the “Values the State Bar,” the Task Force proposes the addition of a new Paragraph 6 as follows:

6. *The State Bar will encourage and challenge its members and others to incorporate environmental sustainability into their law practices by the adoption and implementation of a law office sustainability policy. In addition, the State Bar will strive to mitigate environmental impact by incorporating environmentally responsible practices into all of its activities, to the fullest extent practicable, including making meetings and events more sustainable, encouraging the Sections to do the same, and by mandating resource conservation and waste stream reduction within the State Bar’s facilities and operations.*

Comment:

The Task Force’s standards for environmentally sustainable law practice are *for voluntary adoption by State Bar members*. The Board may identify areas of special focus and appoint a task force or advisory committee to study the topic and advise the Board. However, internal operational efficiencies aimed at “resource conservation and waste stream reduction” for carrying out program activity related to functional areas are within the management discretion of the Executive Director. It is appropriate to have specific performance measures and reports as part of the planning and budget process to assess internal sustainable efforts.

Sustainability practices may fold into existing Value 1. Economy, Efficiency & Effectiveness - The bar recognizes its obligation to handle the resources entrusted to it with care and professionalism, prudent stewardship, economically and with efficient organization and effectiveness.

Addition of the following language to Value 1. Economy, Efficiency & Effectiveness Bar is recommended:

1. Economy, Efficiency & Effectiveness

As a part of the judicial branch, the State Bar recognizes an obligation to handle the resources entrusted to it with care and professionalism. The Bar values prudent stewardship: economical *and sustainable* use of resources, efficient organization of its activities, and effectiveness in its undertakings.

BOARD BOOK

At the July 11, 2008 meeting of the Member Oversight Committee, the State Bar Task Force on Sustainable Practice will submit for public comment a set of standards for environmentally sustainable law practice, *for voluntary adoption by its members*, with recommendations for law office practice in a variety of circumstances—from solo practitioners to large firms to non-profit organizations with limited resources. The Board may consider a more fulsome adoption of sustainability as a policy by incorporating these standards, after adoption, into TAB 24 of the Board Book. TAB 24 currently contains the State Bar's *General Statement of Diversity Principles*. If directed by the Board, staff will make the appropriate amendments to the Board Book to memorialize the Board's Sustainability Policy.

AMENDMENT TO DRAFT *LONG RANGE STRATEGY*

If the PPDB chooses to incorporate revisions recommended either by the Task Force or staff, the committee would need to authorize a second publication of proposed *Long Range Strategy* for a 45-day comment period, ending August 25, 2008. The next opportunity to adopt the Long Range Plan would be on September 24, 2008, in the event that a business meeting of the Board is scheduled at the Annual meeting following the new Board member orientation, or on November 21, 2008, which is the next regularly scheduled meeting of the Board.

FISCAL AND PERSONNEL IMPACT

There is no fiscal and personnel impact on the general fund. Although sustainability was originally considered as a general fund expenditure, any such activity will be funded through non-mandatory dues sources to avoid potential legal challenges from members.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

Tab 19, Article 1, Section 11
Tab 19, Article 5, Section 1
Tab 23, Article 1
Tab 18, Article 3, 1.d.

RULE AMENDMENTS IMPACT

None.

PROPOSED BOARD COMMITTEE ACTION

Adoption of the proposed *Long Range Strategy* is recommended.

Should the Board Planning, Program Development, and Budget Committee concur with the recommendation of staff it would be in order to adopt the following resolution:

RESOLVED, that the Board Planning, Program Development, and Budget Committee recommends that the Board of Governors adopt the proposed *Long Range Strategy* in the form attached.

Or in the Alternative

Should the Board Planning, Program Development, and Budget Committee wish to revise the proposed *Long Range Strategy* and authorize a second public comment period, it would be appropriate to adopt the following resolution:

RESOLVED, that the Board Planning, Program Development, and Budget Committee authorizes the publication of the proposed *Long Range Strategy*, in the form attached, for a second 45-day comment period.

PROPOSED BOARD ACTION

Adoption of the proposed *Long Range Strategy* is recommended. Should the Board concur with the recommendation of the Board Planning, Program Development and Budget Committee it would be in order to adopt the following resolution:

RESOLVED, upon the recommendation of the Board Planning, Program Development, and Budget Committee, the Board of Governors adopts the proposed *Long Rang Strategy* in the form attached.