

AGENDA ITEM

NOVEMBER 111
MOU Negotiations Status

DATE: October 24, 2008

TO: Members, Board of Governors
State Bar Executive Staff

FROM: Robert Hawley, Deputy Executive Director

SUBJECT: Labor Management Negotiations

EXECUTIVE SUMMARY

Negotiations with the Union representing State Bar bargaining unit employees on terms and conditions of employment effective in 2009 will commence during the final quarter of 2008. Negotiations were delayed pending the outcome of the State Bar's fee bill process. With the fee bill in place for 2009, MOU negotiations will proceed with the expectation of presenting a proposal for MOU amendments, including 2009 bargaining unit compensation, to the Board before the end of the year. A special meeting of the board on this subject may be necessary. This is to remind members of the Board and Executive Staff of the applicable legal standards and the procedure that will be followed with respect to the process. If you have further questions please contact Robert Hawley at Robert.Hawley@calbar.ca.gov; 415-538-2277.

I. DISCUSSION

A. What Are MOU Negotiations

Since 1980, the State Bar has been unionized by Service Employees International Union ("SEIU"). There are two bargaining units of employees: a General Unit and an Attorney Unit. The right of the State Bar's employees to bargain collectively is protected by the Meyers-Milias-Brown Act ("MMBA"), California Government Code sections 3500 *et seq.* This is the same law that applies to local cities and counties and miscellaneous government agencies. The State Bar's Executive Staff and designated Confidential Employees (*e.g.*, those in the Office of Human Resources, Office of the Executive Director and Office of General Counsel) are **not** union represented employees.

The existing Memorandum of Understanding ("MOU") runs through the end of 2008. That agreement expires in its entirety December 31, 2008. Thus, the entire agreement is open for negotiation. Since 2003, the State Bar and the Union have engaged in periodic "reopener" negotiations on various issues. This is the first time since 2003 that the entire agreement has been open for renegotiation.

The State Bar's bargaining unit employees have been represented by SEIU since 1980. The State Bar was initially organized by SEIU Local 250. That local authorized SEIU Local 535 to represent State Bar employees under an inter-local service agreement. Local 535 has now passed representation of State Bar employees onto to SEIU Local 1000 under another service agreement.

SEIU has been undergoing a significant internal entity reorganization resulting changes to the manner in which it represents employees. SEIU Local 1000 is the former California State Employees Association (CSEA). This is the first full contract negotiation that the State Bar will have with Local 1000. There are, therefore, more variables and unknowns about the process than in the past.

B. Managing the Negotiations

It is the responsibility of the Executive Director to conduct the negotiations. She has designated a Management Negotiating Team that consists of Deputy Executive Director Robert Hawley, Human Resource Managers Iola Lee-LaMark and Gilda Munoz. The State Bar has also retained the law firm of Liebert Cassidy Whitmore, a public sector labor and employment law specialty firm, to assist with the negotiations. Other key management staff will be involved as their expertise may become required for the negotiations. This team will report to the Executive Director and the Senior Management Team.

The Union Bargaining Team is elected by Union members. Members of the Union Bargaining Team are expected to continue to perform their job duties during the negotiations, although they are accommodated to allow them to participate in bargaining sessions that normally occur during the workday. Union Bargaining Team members are expected to contact their direct managers to work out how their work duties will be handled when they are in negotiations. This will be a point of discussion with the Union as bargaining commences.

C. The Process

It is the responsibility of the Executive Director to manage personnel and labor relations and of her designees to conduct the negotiations in accordance with the fiscal policy and budget determinations set by the Board. These parameters were set by the

Board's budget process for 2009. The Management Negotiating Team will keep Executive Staff and the Board updated on the negotiations as the process proceeds.

Once tentative agreement is reached on successor MOU terms by the Union and State Bar Negotiating Teams, the proposals are submitted by the State Bar to the Board of Governors and by the Union to its membership for ratification. The Board, at that stage,

will consider the State Bar's recommendations with respect to the successor MOU terms and act accordingly.

Personnel costs are the largest part of the State Bar's budget. Thus, the wage and benefit costs of the State Bar are always a major part of the Board's budget planning process. The budget projections regarding anticipated personnel costs adopted by the Board as the basis for the 2009 budget will guide the State Bar Bargaining Team at the bargaining table.

D. The Issues

The key issues to the Union in past negotiations have been retaining 5% merit step increases for those not at the top of their salary range, obtaining a cost-of-living increase and maintaining beneficial health insurance and related benefits. It is also expected that there will be a number of non-economic issues raised such as flexible and alternative work schedules.

It is not yet known what subjects will be raised for discussion by the Union. It is expected that the Union will continue to seek wage increases for 2009. The Union has also advocated in the past that the State Bar provide health care coverage for retirees. Currently, the State Bar provides coverage to current Union employees through Aetna and Kaiser, but no retirement health coverage. The premium costs are shared 20/80 (employees pay 20% and the State Bar 80% of the premiums). Retiree coverage is provided to Executive Staff. Health care is a very complicated and costly issue and is currently the most hotly contested issue in labor management relations nationally. As reflected in a joint Union/Management Task Force Report on this subject, the cost of retiree coverage for over 400 bargaining unit employees is prohibitive.

E. Limit Discussions With Employees on Terms and Conditions of Employment

The collective bargaining process is governed by well-defined legal standards that limit the communications that occur between managers and employees. Board members are considered part of management in this process. It can be an illegal unfair labor practice for management representatives, including board members, to engage individual employees in discussions regarding bargaining issues. It can also undermine

Management's negotiating strategy. Therefore, managers and Board members are requested to be careful in any communications with employees regarding the negotiations and to avoid being inadvertently drawn into such discussions. The preferred response to an employee raising issues pertaining to labor negotiations is to politely advise them that the State Bar is represented by Management's team in the negotiations and redirect them to the formal bargaining process.

II. PERSONNEL/FISCAL IMPACT: None at this time.

III. POLICY/PLANNING/ADMINISTRATIVE MANUAL IMPACT: None at this time.

IV. CONCLUSION

If you have other questions regarding the negotiations, please contact Deputy Executive Director, Robert Hawley (415) 538-2277; Robert.Hawley@calbar.ca.gov.