

AGENDA ITEM

MOU: Status Report Proposed Ratification

DATE: August 21, 2009

TO: Members, Board Operations Committee, Acting on Behalf of the Board In-Between Board Meetings

FROM: Robert Hawley, Deputy Executive Director

SUBJECT: Labor/Management MOU Negotiations
Report on Negotiations Re 2009 MOU Amendments
Proposed Ratification

EXECUTIVE SUMMARY

The State Bar and Union bargaining teams have completed negotiations on potential amendments to the Memoranda of Understanding ("MOU's") for the Attorney and General Bargaining Units to be effective in 2009. Tentative agreement has been reached between the bargaining teams. The proposed terms are reported here for Board ratification. The Union is presenting these terms to the Union membership for ratification. The ratification sought here by the Board is contingent upon the Union membership fully ratifying the proposed amendments. If, for any reason, the Union does not ratify, the Board's ratification will be instantly rendered void. State Bar management recommends ratification. IF YOU HAVE SUBSTANTIVE QUESTIONS PLEASE ATTEND THE BOARD OPERATIONS COMMITTEE MEETING OR CONTACT ROBERT HAWLEY (415) 538-2277, Robert.Hawley@calbar.ca.gov.

RECOMMENDATION

Rules 6.8 and 6.9 of the Rules & Regulations for the Administration of Employer-Employee Relations require that all Memoranda of Understanding ("MOUs") be submitted to the Board of Governors for ratification. The State Bar and Union bargaining teams have reached tentative agreement on the terms described here and each side is recommending ratification to their respective constituencies. The tentative agreement is presented here to the Board Operations Committee to act on behalf of the Board in-between meetings as there is not a regularly scheduled meeting of the current Board to address this issue. The Board's ratification of these terms is expressly made

contingent upon the Union membership following the recommendation of the Union bargaining team and ratifying these terms on the Union's side.

These terms substantially reduce the costs of the original 2009 budget adopted in August of 2008. These reductions are intended to assist in addressing the structural deficit that the Board has been discussing since its January 2009 meeting. The terms also advance the operational needs of the State Bar by re-establishing governing contract terms for bargaining unit employees that expired December 31, 2008. These terms are also consistent with prudent personnel administration standards.

State Bar management recommends ratification. Assuming that the Board Operations Committee is prepared to ratify the terms reported here, the following resolution is recommended:

"WHEREAS, representatives of the State Bar of California ("State Bar") and Service Employees International Union (SEIU) Local 1000, operating under a Service Agreement with SEIU Local 535 ("Union"), met and conferred pursuant to California Government Code sections 3505 and 3505.1 and the State Bar's Rules & Regulations for the Administration of Employer-Employee Relations, with a view to reaching agreement on the Memoranda of Understanding (MOUs) for the General and Attorney Bargaining Units to be effective in 2009; and

WHEREAS, the Union and State Bar bargaining teams have met in good faith and reached tentative agreement on MOU terms to be effective in 2009; and

WHEREAS, the Union is presenting the tentative agreement to its membership with a recommendation that it be ratified; and

WHEREAS, the State Bar's Rules and Regulations for the Administration of Employer-Employee Relations provides at Sections 6.8 and 6.9 that the proposed MOU terms be submitted to the Board of Governors for ratification; now therefore, it is

RESOLVED that the Board Operations Committee, acting on behalf of the Board of Governors in-between meetings, ratifies the proposed Memoranda of Understanding amendments for the General and Attorney Bargaining Units in the form discussed this date to be effective upon full ratification of the amendments by both the Board and the Union; and it is

FURTHER RESOLVED that the Board's action here is contingent upon the Union fully ratifying the tentative agreement in the same form as

presented here. The Board action here does not become effective until the Union confirms that its membership has fully ratified the tentative agreement as set forth here. If, for any reason, Union ratification does not occur, the action of the Board here is voided. The Board further reserves the right to withdraw this action at any time prior to Union ratification; and it is

FURTHER RESOLVED that the Office of General Counsel and the Office of the Executive Director take the appropriate steps to effectuate these amendments.

BACKGROUND

The employees of the State Bar of California have been represented by Service Employees International Union ("SEIU") since 1980. The State Bar is a public entity subject to the jurisdiction of California's Meyers-Milias-Brown Act ("MMBA"), Government Code sections 3500 *et seq.*, for labor relations purposes. The MMBA governs cities, counties and "miscellaneous" public entities such as water districts, community college districts, and redevelopment agencies.

The State Bar's union employees are divided into two separate bargaining units: the Attorney Unit and the General Unit. State Bar Executive Staff and designated Confidential Employees are not represented by the Union. Their terms and conditions of employment are established by the Rules & Regulations Pertaining to the Employment of Executive Staff Employees and the Rules & Regulations Pertaining to the Employment of Confidential Employees adopted by the Board of Governors and administered by the Executive Director. Office of Human Resources and Office of General Counsel employees are among the non-union Confidential Employees.

The State Bar was represented by SEIU Local 535 prior to the negotiations this year. SEIU has undergone a major internal reorganization that has resulted in a restructuring of its various locals. In that process, Local 535 entered into a Service Agreement with Local 1000 (the former California State Employees Association) to undertake representation of the State Bar's bargaining unit employees. Local 1000 has served as the designated and exclusive representative of bargaining unit employees under this Service Agreement since 2008.

Negotiations on the 2009 MOUs began in December 2008. The MOU's expired December 31, 2008, without agreement being reached on successor agreements. The State Bar has been working without MOU terms in place since January 1, 2009.

The terms upon which settlement of the pending negotiations can be achieved are set forth in the attached Executive Summary. The actual contract language will be prepared following ratification, should that occur.

Management is satisfied that the proposed amendments are consistent with the Board's direction to effect cost savings from the existing 2009 budget and going forward, while at the same time assuring that the Board's institutional goals for the State Bar can be achieved through the prudent management of State Bar's resources and personnel.

DISCUSSION

Applicable Authorities

It is a responsibility of the Board and its Board Operations Committee to set prudent policy standards pertaining to employer-employee relations. Pursuant to Rules 6.8 and 6.9 of the Rules & Regulations for the Administration of Employer-Employee Relations, this includes providing policy guidance to management for the MOU negotiations and ratifying successor MOUs. It is the responsibility of the Executive Director to manage personnel prudently and of her designees to conduct the negotiations in accordance with the fiscal policy and budget determinations set by the Board. The settlement terms presented here are in accord with these principles, including the Board's direction that savings be effected from what the Board originally set as the fiscal parameters for the negotiations in August 2008 upon its adoption of the original 2009 budget.

The proposed MOU amendments are summarized in the attached Executive Summary. The actual MOU amendments will be drafted and approved by the Office of General Counsel and the Office of the Executive Director/Secretary consistent with the proposed resolution above.

PERSONNEL/FISCAL IMPACT

Operationally, State Bar management is pleased to obtain the terms presented here. These terms and their fiscal/budget impact are discussed in the Executive Summary attached.

ADMINISTRATIVE MANUEL IMPACT

None

RULES/STRATEGIC PLANNING CONSIDERATIONS

None

CONCLUSION

Assuming the Board Operations Committee, on behalf of the Board of Governors, supports settlement of the negotiations on the terms presented here, it is recommended that the above resolution be adopted.

To expedite consideration of this item at the meeting, if anyone wishes a more detailed explanation of the amendments or the negotiating process, please contact Robert Hawley at (415) 538-2277, Robert.Hawley@calbar.ca.gov.