



THE STATE BAR OF CALIFORNIA

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DATE: August 21, 2009

TO: Members, Board Committee on Operations

FROM: Hon. Douglas Miller and Mr. Richard Odgers, Co-Chairs,
Joint Committee on the Justice Gap Fund
Mary Lavery Flynn, Acting Director, Office of Legal Services
Stephanie L. Choy, Managing Director, Legal Services Trust Fund
Program

SUBJECT: Proposed Modification of Justice Gap Fund Procedures – Proposed
Approval following Public Comment

EXECUTIVE SUMMARY

The Justice Gap Fund, was established by the Board in 2008 pursuant to 2006 legislation (AB 2301), which intended to expand lawyer contributions to support free legal services for the poor. The State Bar requests a \$100 contribution from all California lawyers in their annual fee statement. The Justice Gap Fund makes grants to legal services programs using the Bar's IOLTA distribution formula, and is overseen by the Joint Committee on the Justice Gap Fund, which includes representatives of the Legal Services Trust Fund Commission and the California Commission on Access to Justice.

The legislation also called on the State Bar to do a review of the Fund after two years of operation and consider whether the Board of Governors should make any changes in its procedures. The Joint Committee has conducted a review of the Justice Gap Fund, concluding that no changes should be made at this time in the amount of funds requested or in the distribution formula; however, the Joint Committee recommends that the Board establish one higher recognition level for \$1,000 donations to the Fund.

At its July 17, 2009, meeting, the Stakeholder Relations Committee approved circulating this recommendation for public comment for a period of 30 days. No public comments have been received. The Joint Committee on the Justice Gap Fund proposes that the Board approve the recommendation that no changes be made in the Justice Gap Fund procedures, other than the establishment of one higher recognition level for donations of \$1,000 to the Fund.

For further information on this agenda item, please contact Mary Lavery Flynn, (415) 538-2251; Mary.Flynn@calbar.ca.gov or Stephanie Choy, (415) 538-2249; Stephanie.Choy@calbar.ca.gov.

BACKGROUND

AB 2301 was signed into law by the Governor on August 28, 2006, authorizing the State Bar to facilitate collection of voluntary contributions to legal services programs. It called on the Bar to appoint a task force, in consultation with the Chief Justice and the Judiciary Committee of the Assembly and Senate to study the issues and recommend implementation methods. In July 2008, the State Bar Task Force on Lawyer Support for Legal Services received approval from the Board of Governors to establish the Justice Gap Fund by adding a request to attorneys for a \$100 voluntary contribution through the State Bar's annual Member Fee Statement. The Legal Services Trust Fund Program was designated to administer the fund, which initially was to be distributed to qualified legal services recipients of the Trust Fund Program based on the statutory formula established in Business and Professions Code Section 6210, et.seq. It was further required that the Fund be reviewed after the initial two years, and every five years thereafter, to determine if any changes in the distribution of the funds may be warranted.

Following the two years of work done by the Task Force, the ongoing work of overseeing the Justice Gap Fund was turned over to existing entities, the Legal Services Trust Fund commission and the California Commission on Access to Justice, which together formed the Joint Committee on the Justice Gap Fund.

As required by statute, the Joint Committee examined the protocols developed for the first two years of the Fund, and solicited feedback on the distribution of the funds. Based on the feedback, the Committee determined that given this difficult economy, at this time, there should be no modifications to the funding distribution, which should continue to follow the statutory IOLTA formula.

The Committee made one recommendation to add one higher recognition level for donations of \$1,000 or more to the Justice Gap Fund. These contributors will be designated "Justice Gap Fund Benefactors." With this additional tier, higher contributions could be encouraged in a way that would not detract from local fundraising efforts.

At its July 2009 meeting, the Board Committee on Stakeholder Relations approved circulation of this recommendation for a public comment period beginning July 17, 2009 and ending no earlier than 30 days later.

OVERVIEW OF PUBLIC COMMENT RECEIVED

No comments have been received.

PERSONNEL/BUDGET IMPLICATIONS

The costs for this proposal are covered under current approved budgets

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

None.

RECOMMENDATION

The Joint Committee on the Justice Gap Fund recommends that the Board Committee on Operations approve the recommendation that no changes be made in the operation of the Justice Gap Fund, other than to authorize the establishment of one higher recognition level for donations of \$1,000 or more to the Justice Gap Fund.

PROPOSED RESOLUTION

Should the Committee on Board Operations agree with the above recommendation, the following resolution is suggested:

RESOLVED, that the Committee on Board Operations, acting on behalf of the Board of Governors and on behalf of the Board Committee on Stakeholder Relations, approves the recommendation of the Joint Committee on the Justice Gap Fund that no changes be made in the operation of the Justice Gap Fund, with the exception that it authorizes the establishment of one higher recognition level for donations of \$1,000 or more to the Justice Gap Fund.

ATTACHMENTS:

Attachment 1: AB 2301 (2006)

Attachment 2: Notice of Public Comment