



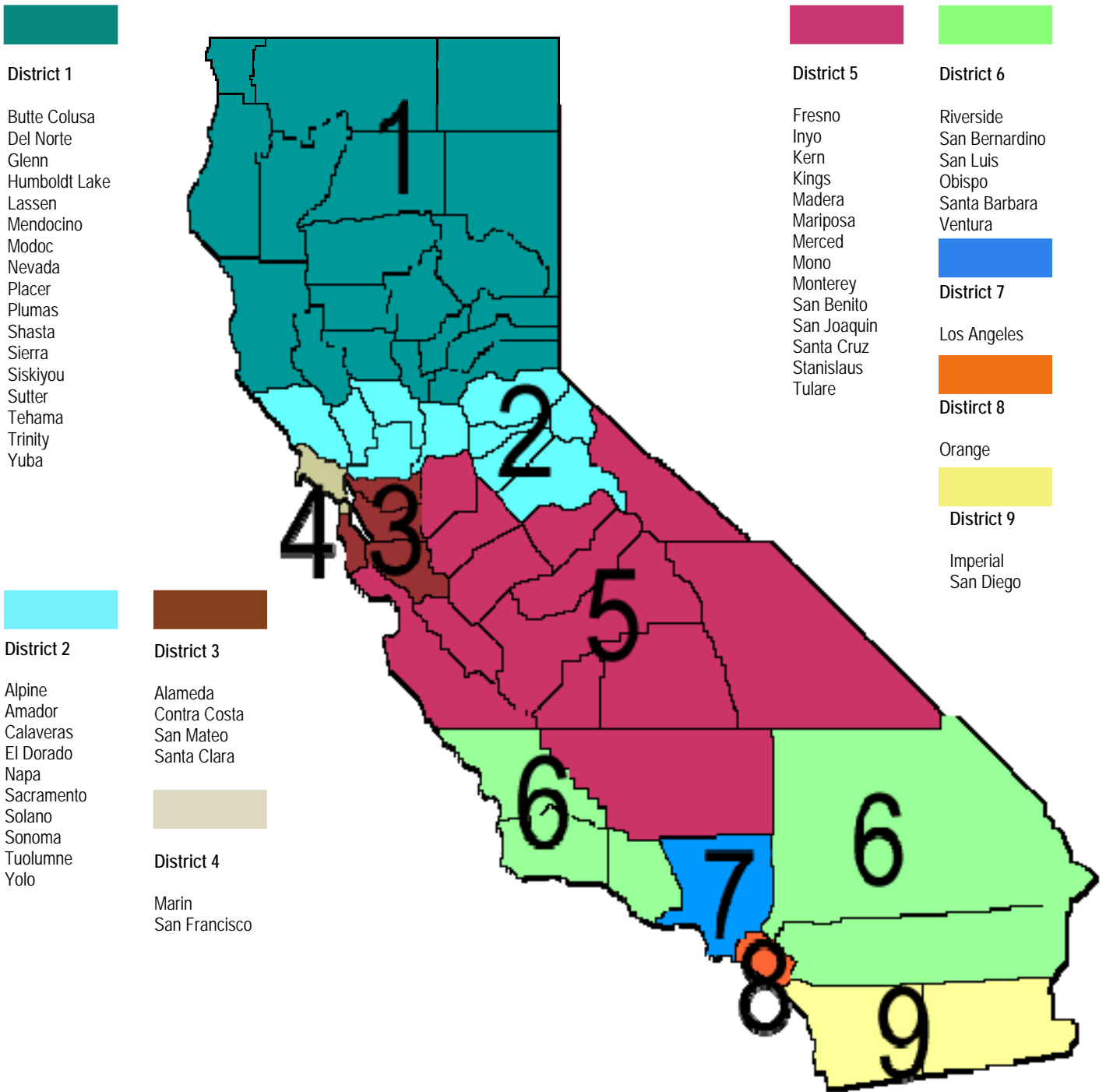
## **BOARD GOVERNANCE REVIEW**



# **Board Governance Review**

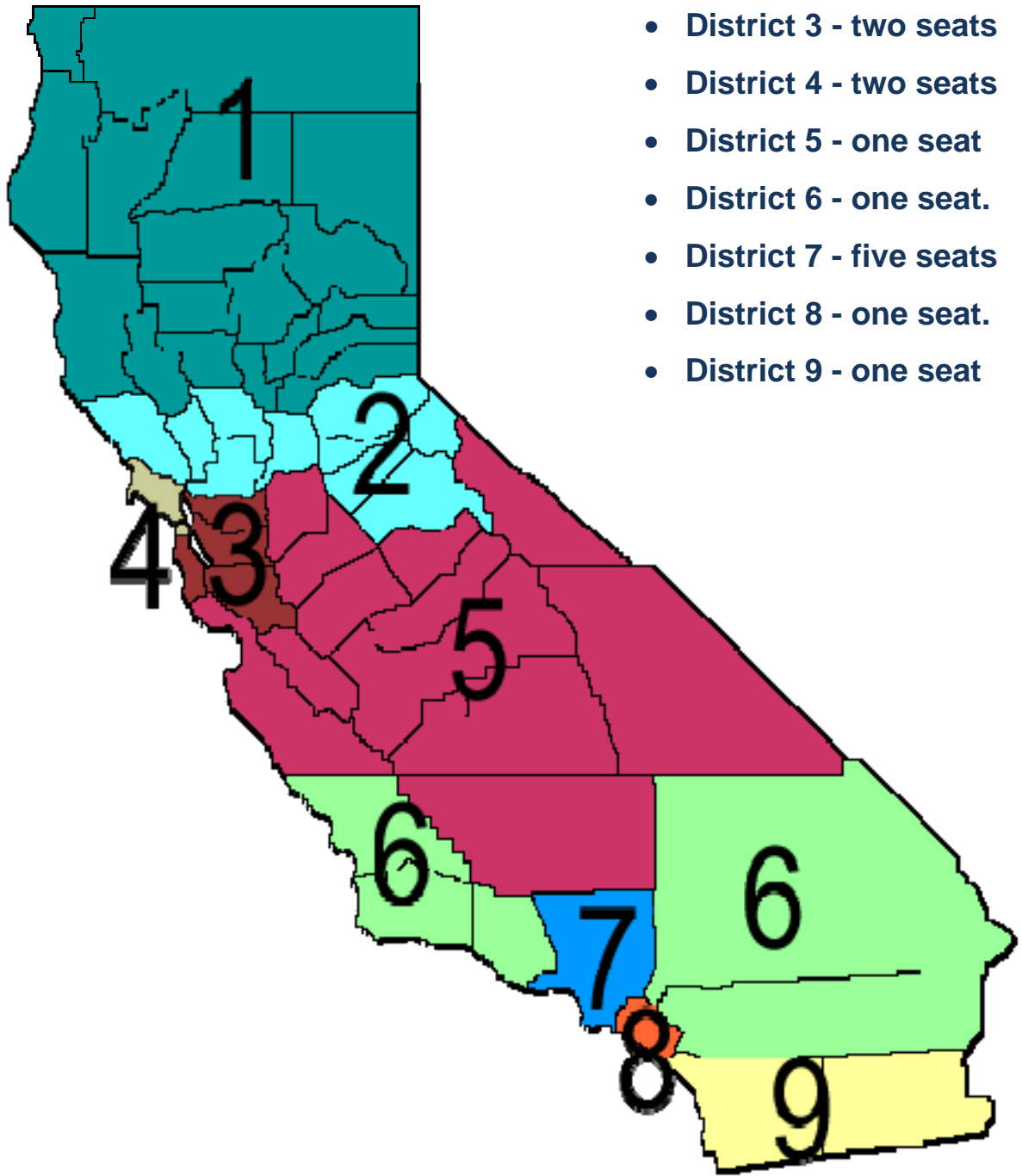
- 1. State Bar Districts Map**
- 2. Number of Elected Seats on the Board of Governors in each District**
- 3. Futures Commission Recommendations on The Governing Structure Of The Unified Bar**
- 4. Select Information on Unified Bar Associations From the 2009 Bar Activities Inventory**

# State Bar Districts Map



Number of elected seats on the Board of Governors in each District is as follows:

- District 1- one seat
- District 2 - one seat
- District 3 - two seats
- District 4 - two seats
- District 5 - one seat
- District 6 - one seat.
- District 7 - five seats
- District 8 - one seat.
- District 9 - one seat



**§6013.5 Public Members; Appointment; Qualifications; Term**

Notwithstanding any other provision of law, six members of the board shall be members of the public who have never been members of the State Bar or admitted to practice before any court in the United States. They shall be appointed through 1982 by the Governor, subject to the confirmation of the Senate.

Each of such members shall serve for a term of three years, commencing at the conclusion of the annual meeting next succeeding his appointment, except that for the initial term after enactment of this section, two shall serve for one year, two for two years, and the other two for three years, as determined by lot.

In 1983 one public member shall be appointed by the Senate Committee on Rules and one public member shall be appointed by the Speaker of the Assembly.

For each of the years, 1984 and 1985, two public members shall be appointed by the Governor, subject to the confirmation of the Senate.

Each respective appointing authority shall fill any vacancy in and make any reappointment to each respective office. (Added by Stats. 1975, ch. 874. Amended by Stats. 1979, ch. 1041; Stats. 1984, ch. 16.)



# THE STATE BAR OF CALIFORNIA

Monday, November 2, 2009

State Bar Home

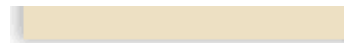
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## Public Members

- All Districts
- Laura N. Chick
- George Davis
- Jeannine English
- William H. Gailey
- Gwen Moore
- Richard A. Rubin



## DISTRICT REPRESENTATIVES

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Six "public" or non-lawyer members are appointed to the Board of Governors - four by California's governor, one by the state Senate Committee on Rules and one by the Speaker of the Assembly.

### Public Members

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- [Laura N. Chick](#)
- [George Davis](#)
- [Jeannine English](#)
- [William H. Gailey](#)
- [Gwen Moore](#)
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Location:

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## Article 2 (6010-6034)

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### Article 2 - Administration (6010-6034)

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- **6010.** Board of Governors in General
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### ↑ §6010. Board of Governors in General

The State Bar is governed by a board known as the board of governors of the State Bar. The board has the powers and duties conferred by this chapter. (Origin: State Bar Act, §20.)

### ↑ §6011. Number of Members

The board consists of 22 members and the President of the State Bar. (Amended by Stats. 1975, ch. 874; Stats 1978, ch. 995; Stats. 1985, ch. 465.)

### ↑ §6012. (Amended by Stats. 1975, ch. 874; Stats. 1989, ch. 1223. Repealed by Stats. 1989, ch. 1223, operative July 1, 1990.)

### ↑ §6012.5 Adjustment of Counties Included in State Bar Districts

Notwithstanding any other provision of law, beginning July 1, 1990, and every 10 years thereafter, the board shall adjust the counties included in the State Bar Districts as they existed on June 30, 1990, and shall provide for the election of attorney members of the board from those districts. The primary consideration to be employed when adjusting the counties included in the State Bar Districts shall be the development of an equitable distribution of attorney members to governors in each district, except for the district containing rural counties such as those contained in State Bar District No. 1 as it existed on June 30, 1990. (Added by Stats. 1989, ch. 1223.)

### ↑ §6013. (Origin: State Bar Act, 1. Amended by Stats. 1975, ch. 874; Stats. 1978, ch. 995; Stats. 1989, ch. 1223. Repealed by Stats. 1989, ch. 1223, operative July 1, 1990.)

### ↑ §6013.1. Membership from Bar Districts and Young Lawyers Association; Operative Date of Section

The attorney membership of the board is composed of:

- a. Fifteen members to be elected from the State Bar Districts created by the board pursuant to Section 6012.5.
- b. One member from the membership of the California Young Lawyers Association appointed pursuant to Section 6013.4.

This section shall become operative on July 1, 1990. (Added by Stats. 1989, ch. 1223., operative July 1, 1990.)

### ↑ §6013.4 Members from Young Lawyers Association; Term; Vacancy

Notwithstanding any other provision of law, one member of the board shall be elected by the board of directors of the California Young Lawyers Association, from the membership of that association.

Such member shall serve for a term of one year, commencing at the conclusion of the annual meeting next succeeding the election and is eligible for reelection. A vacancy shall be filled by election in the manner provided herein for the unexpired term. (Added by Stats. 1978, ch. 995.)

### ↑ §6013.5 Public Members; Appointment; Qualifications; Term

Notwithstanding any other provision of law, six members of the board shall be members of the public who have never been members of the State Bar or admitted to practice before any court in the United States. They shall be appointed through 1982 by the Governor, subject to the confirmation of the Senate.

Each of such members shall serve for a term of three years, commencing at the conclusion of the annual meeting next succeeding his appointment, except that for the initial term after enactment of this section, two shall serve for one year, two for two years, and the other two for three years, as determined by lot.

In 1983 one public member shall be appointed by the Senate Committee on Rules and one public member shall be appointed by the Speaker of the Assembly.

For each of the years, 1984 and 1985, two public members shall be appointed by the Governor, subject to the confirmation of the Senate.

Each respective appointing authority shall fill any vacancy in and make any reappointment to each respective office. (Added by Stats. 1975, ch. 874. Amended by Stats. 1979, ch. 1041; Stats. 1984, ch. 16.)

↑ §6013.6 (Added by Stats. 1983, ch. 646. Repealed January 1, 1990 by its own terms.)

↑ §6013.6 Employment by Public Agencies; Reduced Compensation; Job-Related Benefits

- a. Except as provided in subdivision (b), any full-time employee of any public agency who serves as a member of the Board of Governors of [the] State Bar of California shall not suffer any loss of rights, promotions, salary increases, retirement benefits, tenure, or other job-related benefits, which he or she would otherwise have been entitled to receive.
- b. Notwithstanding the provisions of subdivision (a), any public agency which employs a person who serves as a member of the Board of Governors of the State Bar of California may reduce the employee's salary, but no other right or job-related benefit, pro rata to the extent that the employee does not work the number of hours required by statute or written regulation to be worked by other employees of the same grade in any particular pay period and the employee does not claim available leave time. The employee shall be afforded the opportunity to perform job duties during other than regular working hours if such a work arrangement is practical and would not be a burden to the public agency.
- c. The Legislature finds that service as a member of the Board of Governors of the State Bar of California by a person employed by a public agency is in the public interest. (Added by Stats. 1990, ch. 473, effective August 8, 1990.)

↑ §6014. Election of Members; Successive Terms

Five of the attorney members of the board are elected each year for terms of three years each.

No person shall be nominated for, or eligible to, membership on the board who has served as a member for three years next preceding the expiration of his current term, or would have so served if his current term were completed.

Within the meaning of this section, the time intervening between any two successive annual meetings is deemed to be one year. (Amended by Stats. 1975, ch. 874.)

↑ §6015. Qualifications of Members

No person is eligible for attorney membership on the board unless he or she is an active member of the State Bar and unless he or she maintains his or her principal office for the practice of law within the State Bar district from which he or she is elected. (Amended by Stats. 1975, ch. 874; Stats. 1985, ch. 465; Stats. 1989, ch. 1223.)

↑ §6016. Tenure of Members; Vacancies; Interim Board

The term of office of each attorney member of the board shall commence at the conclusion of the annual meeting next succeeding his or her election, and he or she shall hold office until his or her successor is elected and qualified.

Vacancies in the board of governors shall be filled by the board by special election or by appointment for the unexpired term.

The board of governors may provide by rule for an interim board to act in the place and stead of the board when because of vacancies during terms of office there is less than a quorum of the board. (Added by Stats. 1939, ch. 34. Amended by Stats. 1968, ch. 545; Stats. 1975, ch. 874; Stats. 2002, ch. 415, effective September 9, 2002.)

↑ §6017. Terms of Members from Respective State Bar Districts

Members of the board shall be elected for terms of three years as follows:

- a. In 1939, one member each shall be elected from State Bar Districts 4, 6 and 8 and two members from State Bar District 7.
- b. In 1940, one member each shall be elected from State Bar Districts 1, 3, 5, 7 and 9.
- c. In 1941, one member each shall be elected from State Bar Districts 2, 3 and 4 and two members shall be elected from State Bar District 7.

Thereafter, five members of the board shall be elected each year, each for three year terms, from the State Bar Districts in which vacancies will occur in that year by reason of the expiration of the term of office of a member theretofore elected thereto. (Origin: State Bar Act, §14.)

↑ §6018. Nominations; Qualifications to Vote

Nominations of members of the board shall be by petition signed by at least twenty persons entitled to vote for such nominees.

Only active members of the State Bar maintaining their principal offices for the practice of the law in the respective State Bar districts shall be entitled to vote for the member or members of the board therefrom. (Origin: State Bar Act, §15.)

#### ↑ §6019. Elections

Each place upon the board for which a member is to be elected shall for the purposes of the election be deemed a separate office.

If only one member seeks election to an office, the member is deemed elected. If two or more members seek election to the same office, the election shall be by ballot. The ballots shall be distributed to those entitled to vote at least twenty days prior to the date of canvassing the ballots and shall be returned to a site or sites designated by the State Bar, where they shall be canvassed at least five days prior to the ensuing annual meeting. At the annual meeting, the count shall be certified and the result officially declared.

In all other respects the elections shall be as the board may by rule direct. (Origin: State Bar Act, §15. Added by Stats. 1939, ch. 34. Amended by Stats. 1981, ch. 836; Stats. 2002, ch. 415, effective September 9, 2002.)

#### ↑ §6020. Officers in General

The officers of the State Bar are a president, four vice presidents, a secretary and a treasurer. One of the vice presidents may also be elected to the office of treasurer. (Origin: State Bar Act, §10. Amended by Stats. 1957, ch. 551.)

#### ↑ §6021. Election; Time; Assumption of Duties

Within the period of 270 days next preceding the annual meeting, the board, at a meeting called for that purpose, shall elect the president, vice presidents and treasurer for the ensuing year. The president shall be elected from among those members of the board whose terms on the board expire that year, or if no such member is able and willing to serve, then from among the board members who have completed at least one or more years of their terms.

The other officers shall be elected from among the board members who have at least one or more years to complete their respective terms.

The newly elected president, vice presidents and treasurer shall assume the duties of their respective offices at the conclusion of the annual meeting following their election. (Origin: State Bar Act, §11. Added by Stats. 1939, ch. 34. Amended by Stats. 1943, ch. 278; Stats. 1957, ch. 551; Stats. 1970, ch. 510; Stats. 1973, ch. 17; Stats. 1985, ch. 465; Stats. 2002, ch. 415, effective September 9, 2002.)

#### ↑ §6022. Secretary

The secretary shall be selected annually by the board and need not be a member of the State Bar. (Origin: State Bar Act, §18. Amended by Stats. 1970, ch. 510.)

#### ↑ §6023. Continuance in Office

The officers of the State Bar shall continue in office until their successors are elected and qualify. (Origin: State Bar Act, §19.)

#### ↑ §6024. Duties of Officers

The president shall preside at all meetings of the State Bar and of the board, and in the event of his or her absence or inability to act, one of the vice-presidents shall preside.

Other duties of the president and the vice-presidents, and the duties of the secretary and the treasurer, shall be such as the board may prescribe. The president may vote only in the case of a tie vote of the other members of the board present and voting. (Origin: State Bar Act, §17. Amended by Stats. 1985, ch. 465.)

#### ↑ §6025. Rules and Regulations; Meetings and Quorum

Subject to the laws of this State, the board may formulate and declare rules and regulations necessary or expedient for the carrying out of this chapter.

The board shall by rule fix the time and place of the annual meeting of the State Bar, the manner of calling special meetings thereof and determine what number shall constitute a quorum of the State Bar. (Origin: State Bar Act, §27.)

### ↑ §6026. Reports; Matters Considered at Annual Meeting

At the annual meeting, reports of the proceedings by the board since the last annual meeting, reports of other officers and committees and recommendations of the board shall be received.

Matters of interest pertaining to the State Bar and the administration of justice may be considered and acted upon. (Origin: State Bar Act, §40.)

### ↑ §6026.5 Open/Closed Meetings of the Board

Every meeting of the board shall be open to the public except those meetings, or portions thereof, relating to:

- a. Consultation with counsel concerning pending or prospective litigation.
- b. Involuntary enrollment of active members as inactive members due to mental infirmity or illness or addiction to intoxicants or drugs.
- c. The qualifications of judicial appointees, nominees, or candidates.
- d. The appointment, employment or dismissal of an employee, consultant, or officer of the State Bar or to hear complaints or charges brought against such employee, consultant, or officer unless such person requests a public hearing.
- e. Disciplinary investigations and proceedings, including resignations with disciplinary investigations or proceedings pending, and reinstatement proceedings.
- f. Appeals to the board from decisions of the Board of Legal Specialization refusing to certify or recertify an applicant or suspending or revoking a specialist's certificate.
- g. Appointments to or removals from committees, boards, or other entities.
- h. Joint meetings with agencies provided in Article VI of the California Constitution. (Added by Stats. 1975, ch. 874.)

### ↑ §6027. Special Meetings

Special meetings of the State Bar may be held at such times and places as the board provides. (Origin: State Bar Act, §41.)

### ↑ §6028. Payment of Expenses; Compensation

- a. The board may make appropriations and disbursements from the funds of the State Bar to pay all necessary expenses for effectuating the purposes of this chapter.
- b. Except as provided in subdivision (c), no member of the board shall receive any other compensation than his or her necessary expenses connected with the performance of his or her duties as a member of the board.
- c. Public members of the board appointed pursuant to the provisions of Section 6013.5, and public members of the examining committee appointed pursuant to Section 6046.5 shall receive, out of funds appropriated by the board for this purpose, fifty dollars (\$50) per day for each day actually spent in the discharge of official duties, but in no event shall this payment exceed five hundred dollars (\$500) per month. In addition, these public members shall receive, out of funds appropriated by the board, necessary expenses connected with the performance of their duties. (Origin: State Bar Act, §28. Amended by Stats. 1977, ch. 304, effective July 8, 1977; Stats. 1982, ch. 327, effective June 30, 1982; Stats. 1985, ch. 453; Stats. 2004, ch. 529.)

### ↑ §6029. Appointment of Committees, Officers and Employees; Salaries and Expenses

The board may appoint such committees, officers and employees as it deems necessary or proper, and fix and pay salaries and necessary expenses. (Origin: State Bar Act, §22.)

### ↑ §6030. Executive Functions; Enforcement of Chapter; Injunction

The board shall be charged with the executive function of the State Bar and the enforcement of the provisions of this chapter. The violation or threatened violation of any provision of Articles 7 (commencing with section 6125) and 9 (commencing with section 6150) of this chapter may be enjoined in a civil action brought in the superior court by the State Bar and no undertaking shall be required of the State Bar. (Origin: State Bar Act, §21. Amended by Stats. 1961, ch. 2033.)

### ↑ §6031. Functions in Aid of Jurisprudence, Justice; Evaluation of Justices

- a. The board may aid in all matters pertaining to the advancement of the science of jurisprudence or to the improvement of the administration of justice, including, but not by way of limitation, all matters that may advance the professional interests of the members of the State Bar and such matters as concern the relations of the bar with the public.
- b. Notwithstanding this section or any other provision of law, the board shall not conduct or participate in, or authorize any committee, agency, employee, or commission of the State Bar to conduct or participate in any evaluation, review, or report on the qualifications, integrity, diligence, or judicial ability of any specific justice of a court provided for in Section 2 or 3 of Article VI of the California Constitution without prior review and statutory authorization by the Legislature.

The provisions of this subdivision shall not be construed to prohibit a member of the State Bar from conducting or participating in such an evaluation, review, or report in his or her individual capacity.

The provisions of this subdivision shall not be construed to prohibit an evaluation of potential judicial appointees or nominees as authorized by Section 12011.5 of the Government Code. (Origin: State Bar Act, §23. Amended by Stats. 1945, ch. 177; Stats. 1984, ch. 16.)

#### ↑ §6031.5 Conference of Delegates, State Bar Sections Restriction on Funding, Voluntary Fees

- a. State Bar sections, as established under and pursuant to Article 13 of the Rules and Regulations of the State Bar, and their activities shall not be funded, with mandatory fees collected pursuant to subdivision (a) of Section 6140.

The State Bar may provide an individual section, or two or more sections collectively, with administrative and support services, provided the State Bar shall be reimbursed for the full cost of those services out of funds collected pursuant to subdivision (b), funds raised by or through the activities of the sections, or other funds collected from voluntary sources. The financial audit specified in Section 6145 shall confirm that the amount assessed by the State Bar for providing the services reimburses the costs of providing them, and shall verify that mandatory dues are not used to fund the sections.

- b. Notwithstanding the other provisions of this section, the State Bar is expressly authorized to collect voluntary fees to fund the State Bar sections on behalf of those organizations in conjunction with the State Bar's collection of its annual membership dues. Funds collected pursuant to this subdivision, and other funds raised by or through the activities of the sections, or collected from voluntary sources, for their support or operation, shall not be subject to the expenditure limitations of subdivision (b) of Section 6140.05.
- c. Notwithstanding any other provision of law, the State Bar is expressly authorized to collect, in conjunction with the State Bar's collection of its annual membership dues, voluntary fees or donations on behalf of the Conference of Delegates of California Bar Associations, the independent nonprofit successor entity to the former Conference of Delegates of the State Bar which has been incorporated for the purposes of aiding in matters pertaining to the advancement of the science of jurisprudence or to the improvement of the administration of justice, and to convey any unexpended voluntary fees or donations previously made to the Conference of Delegates of the State Bar pursuant to this section to the Conference of Delegates of California Bar Associations. The Conference of Delegates of California Bar Associations shall pay for the cost of the collection. The State Bar and the Conference of Delegates of California Bar Associations may also contract for other services. The financial audit specified in Section 6145 shall confirm that the amount of any contract shall fully cover the costs of providing the services, and shall verify that mandatory dues are not used to fund any successor entity.
- d. The Conference of Delegates of California Bar Associations, which is the independent nonprofit successor entity to the former Conference of Delegates of the State Bar as referenced in subdivision (c), is a voluntary association, is not a part of the State Bar of California, and shall not be funded in any way through mandatory dues collected by the State Bar of California. Any contribution or membership option included with a State Bar of California mandatory dues billing statement shall include a statement that the Conference of Delegates of California Bar Associations is not a part of the State Bar of California and that membership in that organization is voluntary. (Added by Stats. 1999, ch. 342. Amended by Stats. 2002, ch. 415, effective September 9, 2002; Stats. 2003, ch. 334.)

#### ↑ §6032. (Added by Stats. 1987, ch. 688. Repealed by Stats. 2001, ch. 24.)

#### ↑ §6032. California Supreme Court Historical Society; funding; fees

Notwithstanding any other provision of law, the State Bar is expressly authorized to collect, in conjunction with the State Bar's collection of its annual membership dues, voluntary fees on behalf of and for the purpose of funding the California Supreme Court Historical Society, which advances the science of jurisprudence by preserving and disseminating to the general public the history of the Supreme Court and the Judicial Branch. (Added by Stats. 2002, ch.415, effective September 9, 2002.)

#### ↑ §6033. Nonprofit Organizations Providing Free Legal Services - Collection of Voluntary Financial Support: Task Force Study

- a. Notwithstanding any other provision of law, the State Bar is expressly authorized to facilitate the professional responsibilities of members by collecting, in conjunction with the State Bar's collection of its annual membership dues or otherwise, voluntary financial support for nonprofit organizations that provide free legal services to persons of limited means.
- b. To implement this section, the State Bar, in consultation with the Chief Justice of California, shall appoint a task force of key stakeholders to analyze the mechanisms and experience of bar associations that have adopted programs for the collection of financial contributions from bar members and shall propose an appropriate method for facilitating the collection and distribution of voluntary contributions that is best calculated to generate the greatest level of financial support and participation from State Bar members, taking into account such issues as the justice-gap between the legal needs of low-income people in California and the legal resources available to assist them. The method and any recommended voluntary contribution amount adopted by the Board of Governors of the State Bar of California shall be implemented for the 2008 fiscal year, and shall be reviewed and adjusted as needed after two years and, thereafter, every five years as needed, in consultation with affected service providers and other key stakeholders. (Added by Stats.2006, ch.165.)

[↑ §6034. \(Added by Stats. 1993, ch. 863. Repealed by Stats. 2001, ch. 96.\)](#)

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**RECOMMENDATIONS ON THE  
GOVERNING STRUCTURE OF THE  
UNIFIED BAR**

**RECOMMENDATIONS ON THE GOVERNING STRUCTURE  
OF THE UNIFIED BAR**

**SUBCOMMITTEE ON BAR STRUCTURE AND ORGANIZATION**

The Subcommittee on Bar Structure and Organization has identified certain problems in the present governing structure and makes recommendations for changes in bar structure. In most cases these are general recommendations with options, about which there was not consensus, for implementing them. The Subcommittee viewed the crafting of detailed recommendations as requiring more time than was available prior to the Commission's final meeting on March 18, 1995. At that meeting the Commission directed that this document be included as an appendix to the final report of the Commission.

**PROBLEMS IDENTIFIED IN THE STATE BAR GOVERNING STRUCTURE**

The Commission's recommendation that the unified bar in California continue was with the understanding that problems in the implementation of the unified bar concept in California may require changes in the governing structure of the State Bar. The Subcommittee has sought to identify these problems.

**The State Bar Structure Should be More Responsive to its Members**

The Subcommittee believes that a current flaw in the present governing structure of the State Bar is that it does not encourage the organization to be responsive to the needs of its members - and this is the perception of a substantial number of attorneys. This is reflected in the many comments received by the Commission, including from focus groups and hearings, that members feel alienated from the State Bar. While negative feelings about the State Bar may to some extent reflect the malaise about institutions in general, many complaints appear genuine. Too many members feel that the State Bar is out of touch with them; that Board members do not adequately communicate with their attorney constituents; and that the State Bar as a whole does not effectively communicate with its members and does not adequately reflect their interests. No organization representing as many diverse interests as the State Bar can satisfy all of its members. However, the Subcommittee believes that substantial improvement in relating to the membership is needed and possible.

The recommendations listed below to modify the State Bar governing structure are designed to improve its communications and responsiveness to the members. These recommendations are discussed later in this report; they include:

- Enlarge the Board of Governors
- Permit board members to run for reelection on their records
- Create expectations that a major function of board members is communication with members
- Provide opportunities for participation to all segments of the profession
- Provide a stipend to the State Bar president to enhance the ability of diverse segments of the bar to serve as president
- Provide for regular review of operations
- Use technology to enhance communication with members

Structural change can only do so much. Ultimately, the State Bar must be infused with an attitude of responsiveness. This is not to suggest that State Bar leadership should be swayed by every complaint or disagreement. The Bar should, however, go out of its way to solicit input from the membership and convey an attitude that it is willing to listen to and attempt to address the complaints of its members and the public alike.

### **State Bar Policy Lacks Sufficient Continuity**

State Bar policy was viewed by the Subcommittee as lacking continuity and as being too driven by the agenda of the State Bar President and by presidential aspirations. Priorities typically change annually with each incoming president. The Subcommittee believes this has a tendency to fragment the organization. A president-driven agenda was viewed as having both positive and negative aspects. A positive aspect is that this promotes organizational vitality. However, there is a danger that the organization becomes fragmented and that as priorities change each year projects are never completed. Projects worth doing may require more than a year, but multi-year projects are difficult to plan and implement when the time-frame is a single year. In addition, too little attention appears to have been paid to the cost of new programs and whether prior projects should be terminated to provide funding for new ones. Specific recommendations for ensuring greater continuity to State Bar Policy include:

- Adopt a president-elect system
- Create the office of immediate past-president
- Permit board members to seek reelection on their records

## **The Governing Board Should Focus on Policy-Making and be Less Involved in Day-to-Day Operations**

The current governing board of the State Bar was viewed as being heavily involved in the day-to-day operations of the organization to the detriment of broader policy concerns. This focus on detail was seen as driven by presidential aspirations and the resulting desire to carve out a particular niche in the organization. It was viewed as a contributor to the governing board's insufficient communication with members and a source of discontinuity in State Bar policy. Specific recommendations for making the governing board more policy oriented overlap those set out above and include:

- Enlarge the governing board
- Create a board executive committee
- Clarify board and staff functions

The recommendations of the Subcommittee for changes in the governing structure of the unified bar in California are discussed below.

### **RECOMMENDATIONS FOR ADDRESSING PROBLEMS IN THE GOVERNING STRUCTURE**

#### **Recommendation 1. Enlarge the Governing Board**

#### **Recommendation 2. Provide opportunities for participation to all segments of the profession**

The Subcommittee recommends that the board of governors be enlarged. A larger more "visible" board would better link the governing board to the membership and would facilitate communication with members. The present 22 member board, with six public members who are not lawyers, was viewed as having insufficient contact with or accountability to attorney members because each member represents so many lawyers. The Subcommittee believes that a larger board would meet less frequently and would be more focused on broader policy issues rather than on day-to-day detail or presidential aspirations and policies, i.e., it was viewed as a counter-force to the heavy programmatic focus now placed on annual projects initiated by the president. A larger board also was seen as bringing more stability to programmatic decisions. The Subcommittee believes that there would be more program continuity if the structure forced the board to function as a broad policy-making authority and to be more accountable to the members. A larger board was also seen as being more fully representative of the diversity of the legal profession in California.

It was suggested that in addition to policy-making, a major role of board members should be communication with the members, and that this should not be the sole responsibility of the president. Expanding the size of the board would mean that each board member potentially would have fewer constituents to communicate with.

There was no consensus about how much larger the board should be. One suggestion was to double the size of the board to about 44 members. This was viewed by some as substantially increasing the representativeness of the board without becoming so large as to be unwieldy and to diffuse individual responsibility; and as having the advantage of not requiring redrawing of State Bar districts, of not involving the creation of "specialty seats" except as authorized under current law, and of maintaining the lawyer/public member ratio. Another suggestion was to increase the size of the board somewhat and in addition to have the board share power with a much larger representative body like the Conference of Delegates made up of representatives of local, minority and specialty bars. This was viewed as ensuring greater representation of all segments of the profession.

There was also no consensus about the composition of an enlarged board of governors. One view was that board members should continue to represent districts apportioned by attorney population on the ground that the essential qualification should be broad-based appeal to the lawyer population and that the allocation of "specialty seats" inevitably involves judgments that include an element of arbitrariness. Another view was that election of board members from the attorney population at large would not assure that diverse segments of the professions are represented on the board and some seats should be designated for specific segments of the profession to ensure this.

The Subcommittee also discussed, without conclusion, the role that State Bar Sections should play in the governing structure.

### **Recommendation 3. Permit members to run for reelection on their records**

The Subcommittee recommends that board members be permitted to run for reelection. This is viewed as a significant way to promote board member accountability to their constituencies and to ensure that members stay in communication with the attorneys they represent. Present board terms are for three years without renewal. Accordingly, once a board member is elected, there is no automatic incentive to represent constituents' interests or communicate with them.

Although agreeing that board members should be able to seek reelection, the Subcommittee does not make a specific recommendation concerning the length of board terms. Suggestions concerning term length ranged from one to three years. Terms could remain at three years, but there was concern that this might require too great a time commitment to expect that a board member would run for a second term. One

suggestion was to shorten the term to two years. To avoid an entrenched board, the idea of term limits was also suggested, e.g., a two-term limit.

#### **Recommendation 4. Create an executive committee of the board of governors**

There was general agreement that an executive committee would be needed if the board of governors were larger and met less often. In addition, it was viewed as a positive change in its own right. An executive committee could act for the board between meetings. The Subcommittee believes that an executive committee, which shared power with the board and the president, would keep the State Bar's agenda more connected with the membership. It could relieve the full board of much of the day-to-day oversight of operations and implementation of board policy, and make recommendations on policy issues which should reinforce the full board's policy-making function. It was also viewed as promoting continuity of board policy and a counterweight to pressures to continually reshape priorities based on presidential aspirations. The Subcommittee, however, does not make a recommendation on the precise delegation from the board to the executive committee.

The size of an executive committee to recommend was not decided. There appeared to be agreement that 15 was the maximum size that could be effective. One suggestion was for seven to nine members, which is within the size range of executive committees in other state bars studied by the Subcommittee.

The Subcommittee reached no consensus about the composition of the executive committee, e.g., whether the immediate past-president (see below) or the chairs of oversight committees should be members of the executive committee. It was agreed the board oversight committees would still be needed with an executive committee, and their functions would need to be spelled out.

#### **Recommendation 5. Adopt a president-elect system**

#### **Recommendation 6. Provide a stipend to the State Bar president to enhance the ability of diverse segments of the bar to serve as president**

There was general agreement that a president-elect system would be preferable to the present system of electing a president because it would provide greater continuity in bar leadership. Under a president-elect system the contested election would be for the office of president-elect, the occupant of which would then automatically succeed to the presidency in the next year. Currently, the State Bar of California elects a president in the early summer who takes office after the annual meeting usually in September. Under the current system priorities are largely determined by the president's agenda. This involves the Board in discontinuing and abandoning some programs and

reinstating new ones, often on a yearly basis. The implementation of a president-elect system is responsive to that problem. A president-elect system would provide continuity in leadership by extending the term to a year of planning as president-elect and a year as president. Most other state bars elect a president-elect who has a year or more to plan for the presidency.

An issue discussed without conclusion was what experience requirements candidates for president-elect should meet. There was agreement that candidates for president-elect should be members of the board of governors (see discussion below), but not about additional qualifications. The discussion of additional qualifications for president-elect candidates interacted with the proposal to permit board members to seek reelection. One option discussed is to require that a candidate for president-elect complete at least two years on the board of governors (assuming a two-year board term). This would open up the presidency to board members completing their first term and also to those who are in their second term, which potentially provides a larger, more diverse candidate pool. Another option discussed was that president-elect candidates come from those board members who are in the last year of their second term. A third option suggested was to draw president-elect candidates from current or past members of the board.

The Subcommittee recommends that the president-elect be elected from and by the proposed enlarged board of governors. The State Bar president is now elected by the board of governors from the third year members. The Subcommittee believes this method of election should be continued with a larger, more representative board. Statewide direct election of the president-elect is opposed because the great cost and time commitment to run for office would likely limit candidates to those who are well funded. Direct election could also make it extremely difficult for lawyers not from major urban centers to be elected. In general, statewide elections were seen as too costly and time consuming and too limiting of the pool of candidates for president.

The Subcommittee believes that a stipend for the State Bar president would also enhance the ability of a broader cross-section of the profession to serve in that office. The position of State Bar president is inherently almost a full-time job. Some presidents have been able to maintain a practice, but often with difficulty. A stipend for the president would permit a broader range of attorneys, e.g., sole practitioners, members of small firms, and government and legal services attorneys, to run for president-elect. The American Bar Association is now providing a stipend to its president in recognition of the president's sacrifice of time and lost income.

#### **Recommendation 7. Create the office of immediate past-president**

Another Subcommittee recommendation aimed at providing greater continuity of leadership is the creation of the office of immediate past president. This would better utilize the experience of the president. In a number of other state bars the immediate

past-president is a member of the governing board and sometimes a member of the executive committee. In some state bars the immediate past-president is given additional roles as well. For example, in the Illinois State Bar Association the immediate past-president is the chair of the legislation committee and a member of the scope and correlation committee, which is responsible for policy issues. The Subcommittee recommends that the immediate past-president be a member of the governing board, but makes no recommendation about other roles for this office.

#### **Recommendation 8. Clarify board and staff functions**

#### **Recommendation 9. Provide for regular review of operations**

The Subcommittee recommends as a general matter that board and staff functions be clarified. The Subcommittee is convinced that the board should play more of a policy-making role and be less involved in day-to-day administration. If this is to happen, board and staff functions will need to be clarified. As discussed above, the Subcommittee recommends that much of the day-to-day oversight now performed by the board be conducted by an executive committee of the board and that a president-elect be involved in planning. These changes would all require greater clarification of the functions of the board, executive committee, board substantive committees, officers and the staff.

The Subcommittee also recommends that additional mechanisms be created to promote accountability on a day-to-day and long term basis. The creation of an executive committee was viewed as increasing accountability, especially day-to-day accountability, e.g., between the executive committee and the staff. In the longer term there should be mechanisms to assure that priorities are established, determinations are made concerning what the State Bar can do well, and funds are used reasonably and not spread too thin. In addition, the organization should seek to determine member and public satisfaction with the State Bar's performance of functions where the organization interacts with attorneys or the public. The Commission itself used a member survey and focus groups for input, and similar techniques could be used by the State Bar on a regular basis. Only this way will the unified bar identify problems in order to consider how they can be addressed.

#### **Recommendation 10. Use technology to enhance communication with members**

In looking toward the future the Subcommittee sees many opportunities for a unified bar to use technology to enhance its relationship to the attorneys and the public. In the member survey conducted by the Commission, attorneys identified assistance in incorporating new technology as a major need that the State Bar could address. The Commission also found that new technologies can help attorneys be more efficient and effective. For the State Bar itself, new technology potentially could improve the

effectiveness of the State Bar organization without increasing costs. A variety of uses for new technology by the unified bar can be imagined:

- Teleconferencing could substantially reduce the cost of meetings that now require heavy expenditures to move people around the state. In the future people in different locations will be able to meet as in the same room. The reduced cost of communications could enable the State Bar to involve more attorneys in its work, e.g., committees, sections, taskforces, and entities that meet only infrequently because of the costs of face-to-face meetings could meet as needed.
- Electronic communications could link the organization to every lawyer with information of importance, e.g., schedules of MCLE programs, ethics advice, membership records.
- Every member could have full and instant access to proposals on which comment is sought, affording members far more opportunity for input concerning State Bar proposals;
- On-line subject and issue forums could be sponsored for members. Instead of waiting for the State Bar to send information to them through, for example, the State Bar Journal, members could have available extensive and current information upon demand. Those expressing an interest in a particular subject could be electronically alerted to new developments.
- Attorneys could pay State Bar fees, sign up for meetings, change addresses and conduct other business with the State Bar electronically.
- Through electronic means, the public could obtain information about the disciplinary process and whether persons are licensed attorneys, make disciplinary complaints, and order will forms and consumer pamphlets.

These and other applications of technology may be able to hold steady or reduce the cost of State Bar operations while improving communication with members and the public. Of course, new technology needs to be implemented in a way that is sensitive to the needs of users since new technology that is poorly implemented can frustrate and create barriers to communication.

## **FINALIZING GOVERNING STRUCTURE RECOMMENDATIONS**

The Subcommittee has sought to identify the broad outline of needed changes in the governing structure of the unified bar. As noted above, the details of implementing these recommendations will require exploration after the scheduled end of the

**Commission's work. In a number of cases the Subcommittee has identified options for consideration. The Subcommittee recommends that the Board of Governors establish a process to develop detailed recommendations on these issues.**

## SELECT INFORMATION ON UNIFIED BAR ASSOCIATIONS FROM THE 2009 BAR ACTIVITIES INVENTORY

**Does the bar have a nomination committee to vet candidates for president and other offices?**

*Yes:*

Alabama State Bar  
Alaska Bar Association  
Hawaii State Bar Association  
Louisiana State Bar Association  
Nebraska State Bar Association  
Rhode Island Bar Association  
South Carolina Bar  
State Bar of Texas  
State Bar of Wisconsin  
The District of Columbia Bar  
The Florida Bar  
The Mississippi Bar  
The West Virginia State Bar  
Wyoming State Bar

**If so, who chairs the committee?**

*President:*

Alaska Bar Association  
Louisiana State Bar Association  
The District of Columbia Bar  
The Mississippi Bar  
Wyoming State Bar

*Immediate Past-President:*

South Carolina Bar  
State Bar of Texas

*President-Elect:*

Alabama State Bar

West Virginia State Bar

*Committee Chair:*

Nebraska State Bar Association

Rhode Island Bar Association

**Does the nominating committee present a single slate of candidates for approval or nominate candidates for a contested election?**

*Contested Election:*

Hawaii State Bar Association

State Bar of Montana

State Bar of Texas

State Bar of Wisconsin

The District of Columbia Bar

The Mississippi Bar

The State Bar of California

The West Virginia State Bar

Utah State Bar

*Single Slate:*

Alabama State Bar

Alaska Bar Association

Louisiana State Bar Association

Nebraska State Bar Association

Rhode Island Bar Association

South Carolina Bar

Wyoming State Bar

**Does the bar require candidates for president to have served on the board?**

*Yes:*

Idaho State Bar

South Carolina Bar

State Bar of Arizona

State Bar of Nevada

State Bar of New Mexico

The Missouri Bar

The State Bar of California

The West Virginia State Bar  
Virginia State Bar

**How many seats are there on the governing body?**

5	Idaho State Bar
12	Alaska Bar Association
12	Nebraska State Bar Association
13	Wyoming State Bar
13	Utah State Bar
13	State Bar Association of North Dakota
15	State Bar of Nevada
17	Washington State Bar Association
19	Kentucky Bar Association
21	South Carolina Bar
21	State Bar of New Mexico
22	State Bar of Montana
22	New Hampshire Bar Association
22	Louisiana State Bar Association
22	Hawaii State Bar Association
23	The District of Columbia Bar
23	The State Bar of California
25	The West Virginia State Bar
30	State Bar of Arizona
35	The Mississippi Bar
45	The Missouri Bar
52	The Florida Bar
54	State Bar of Wisconsin
72	Alabama State Bar
92	Rhode Island Bar Association
156	State Bar of Georgia

**The bar's governing body is composed of (check all that apply):**

*At-large Delegates:*

Alabama State Bar

Hawaii State Bar Association

Louisiana State Bar Association

New Hampshire Bar Association

Rhode Island Bar Association

South Carolina Bar  
State Bar of Arizona  
State Bar of Georgia  
State Bar of Wisconsin  
The District of Columbia Bar  
Virginia State Bar  
Washington State Bar Association

*Representatives from geographical districts:*

Alaska Bar Association  
Hawaii State Bar Association  
Idaho State Bar  
Kentucky Bar Association  
Louisiana State Bar Association  
Nebraska State Bar Association  
New Hampshire Bar Association  
Rhode Island Bar Association  
South Carolina Bar  
State Bar Association of North Dakota  
State Bar of Arizona  
State Bar of Georgia  
State Bar of Montana  
State Bar of Nevada  
State Bar of New Mexico  
State Bar of Texas  
State Bar of Wisconsin  
The Florida Bar  
The Mississippi Bar  
The Missouri Bar  
The State Bar of California  
The West Virginia State Bar  
Utah State Bar  
Virginia State Bar  
Washington State Bar Association  
Wyoming State Bar

*Presidential Appointments:*

State Bar of Georgia

*Designated Seats:*

Alabama State Bar  
Kentucky Bar Association  
Louisiana State Bar Association  
New Hampshire Bar Association  
Rhode Island Bar Association  
South Carolina Bar  
State Bar Association of North Dakota  
State Bar of Arizona  
State Bar of Montana  
State Bar of New Mexico  
State Bar of Texas  
State Bar of Wisconsin  
The Florida Bar  
The Mississippi Bar  
The State Bar of California  
The West Virginia State Bar  
Virginia State Bar  
Washington State Bar Association

**If your bar has representatives from geographical districts serving on the board, is there proportional representation (based on the lawyer populations in the district)?**

*Yes:*

Alabama State Bar  
Hawaii State Bar Association  
Nebraska State Bar Association  
Rhode Island Bar Association  
State Bar of Georgia  
State Bar of Montana  
State Bar of Nevada  
State Bar of New Mexico  
State Bar of Texas  
State Bar of Wisconsin  
The Florida Bar  
The Mississippi Bar  
The State Bar of California  
Virginia State Bar

*No:*

Alaska Bar Association  
Idaho State Bar  
Kentucky Bar Association  
Louisiana State Bar Association  
New Hampshire Bar Association  
South Carolina Bar  
State Bar Association of North Dakota  
State Bar of Arizona  
The West Virginia State Bar  
Utah State Bar  
Washington State Bar Association  
Wyoming State Bar

**If so, have the districts been reapportioned within the last 5 years?**

Yes:

Rhode Island Bar Association  
State Bar of Wisconsin  
The Florida Bar

**If your bar has designated seats on the board, for which groups are they reserved?**

*30% of unified state bars have seats for Ethnic Minority Lawyers:*

Alabama State Bar  
State Bar of Georgia  
State Bar of Texas  
State Bar of Wisconsin  
The Mississippi Bar  
The West Virginia State Bar  
Washington State Bar Association

*17% of unified state bars have seats for Law school officials*

Louisiana State Bar Association  
South Carolina Bar  
State Bar Association of North Dakota  
State Bar of Arizona

*17% of unified state bars have seats for out of state members*

State Bar of Georgia

State Bar of Texas  
State Bar of Wisconsin  
The Florida Bar

*21% of unified state bars have seats for the general public*

State Bar of Arizona  
State Bar of Texas  
State Bar of Wisconsin  
The Florida Bar  
The State Bar of California

*2% of unified state bars have seats for Sections or Committees*

State Bar of Montana  
State Bar of Texas

*The Alabama State Bar has a designated seat for women lawyers*

*60% of unified state bars have seats for young lawyers*

Alaska Bar Association  
Hawaii State Bar Association  
Kentucky Bar Association  
Nebraska State Bar Association  
South Carolina Bar  
State Bar of Montana  
State Bar of New Mexico  
State Bar of Wisconsin  
The Florida Bar  
The Mississippi Bar  
The State Bar of California  
The West Virginia State Bar  
Virginia State Bar  
Washington State Bar Association

*Other categories receiving votes include:*

ABA delegates, past presidents, bar journal editor in chief  
ABA rep  
Law Institute  
Paralegal, Senior Lawyers  
Senior lawyers, IPP  
Senior lawyers; Conference of Local Bar Assns; at large members

Supreme Court appointments  
YLS/ New Reps  
courts  
geographic, age  
government/public sector

**If your bar has designated seats on the board, are there any seats that are NOT entitled to vote?**

Yes:

Alaska Bar Association  
Hawaii State Bar Association  
Kentucky Bar Association  
State Bar of Arizona  
State Bar of Montana  
State Bar of New Mexico  
State Bar of Texas  
State Bar of Wisconsin  
The Florida Bar

**If yes, which designated seats are NOT entitled to vote?**

Alaska Bar Association: Ex-officio: 3 law school deans and immediate past president  
Hawaii State Bar Association: Immediate Past Pres and Chair of YLS abstain from discipline votes  
Kentucky Bar Association: New Lawyer Liaison is not an official member of the Board for voting purposes  
State Bar of Arizona: Paralegal  
State Bar of Montana: Section Reps to the Board  
State Bar of New Mexico: YLD President-elect  
State Bar of Texas: Young lawyers, Paralegal Section  
State Bar of Wisconsin: ethnic minority lawyers  
The Florida Bar: Past president

**How long are the terms for at-large members:**

1	State Bar of Wisconsin
1	Rhode Island Bar Association
2	State Bar of Georgia
2	Hawaii State Bar Association
3	South Carolina Bar
3	State Bar of Arizona

- 3 Washington State Bar Association
- 3 Louisiana State Bar Association
- 3 New Hampshire Bar Association
- 3 The Mississippi Bar
- 3 Virginia State Bar
- 3 Alabama State Bar
- 3 The District of Columbia Bar

**Geographic Districts:**

- 1 Rhode Island Bar Association
- 2 New Hampshire Bar Association
- 2 The Florida Bar
- 2 State Bar of Nevada
- 2 State Bar of Montana
- 2 State Bar of Wisconsin
- 2 State Bar Association of North Dakota
- 2 Hawaii State Bar Association
- 2 State Bar of Georgia
- 2 Kentucky Bar Association
- 3 State Bar of Texas
- 3 Idaho State Bar
- 3 State Bar of Arizona
- 3 South Carolina Bar
- 3 State Bar of New Mexico
- 3 Alaska Bar Association
- 3 The State Bar of California
- 3 The West Virginia State Bar
- 3 Utah State Bar
- 3 Virginia State Bar
- 3 Washington State Bar Association
- 3 Wyoming State Bar
- 4 Nebraska State Bar Association
- 8 Louisiana State Bar Association

**Presidential Appointments:**

- 1 Rhode Island Bar Association
- 1 Wyoming State Bar
- 2 State Bar of Georgia

**Designated Seats:**

1	State Bar of Montana
1	State Bar of Wisconsin
1	Wyoming State Bar
1	Rhode Island Bar Association
1	Virginia State Bar
1	Hawaii State Bar Association
2	South Carolina Bar
2	Kentucky Bar Association
2	Alaska Bar Association
2	The Florida Bar
3	The Mississippi Bar
3	The State Bar of California
3	The West Virginia State Bar
3	Alabama State Bar
3	Washington State Bar Association
3	New Hampshire Bar Association
3	Louisiana State Bar Association
3	State Bar of Arizona

**Is there a limit on the number of consecutive terms governing body members may serve?**

Yes:

Alabama State Bar  
Kentucky Bar Association  
Louisiana State Bar Association  
Nebraska State Bar Association  
New Hampshire Bar Association  
South Carolina Bar  
State Bar of Arizona  
State Bar of Nevada  
State Bar of New Mexico  
State Bar of Texas  
State Bar of Wisconsin  
The District of Columbia Bar  
The Mississippi Bar  
The State Bar of California  
The West Virginia State Bar  
Virginia State Bar  
Washington State Bar Association

**Does the governing body have an executive committee?**

Yes:

Alabama State Bar  
Hawaii State Bar Association  
Kentucky Bar Association  
Louisiana State Bar Association  
Nebraska State Bar Association  
New Hampshire Bar Association  
Rhode Island Bar Association  
South Carolina Bar  
State Bar Association of North Dakota  
State Bar of Arizona  
State Bar of Georgia  
State Bar of Montana  
State Bar of Nevada  
State Bar of New Mexico  
State Bar of Texas  
State Bar of Wisconsin  
The District of Columbia Bar  
The Florida Bar  
The Mississippi Bar  
The Missouri Bar  
The State Bar of California  
The West Virginia State Bar  
Utah State Bar  
Virginia State Bar

**If yes, how many seats are on the executive committee?**

4 Wyoming State Bar  
5 Kentucky Bar Association  
5 State Bar of Nevada  
5 Utah State Bar  
5 The District of Columbia Bar  
5 State Bar of Montana  
5 State Bar of Arizona  
5 State Bar Association of North Dakota  
6 South Carolina Bar  
6 New Hampshire Bar Association  
6 Louisiana State Bar Association  
6 The West Virginia State Bar

- 6 The Missouri Bar
- 7 Hawaii State Bar Association
- 7 State Bar of New Mexico
- 7 The Mississippi Bar
- 8 Alabama State Bar
- 9 The State Bar of California
- 11 The Florida Bar
- 12 Virginia State Bar
- 12 Rhode Island Bar Association
- 12 Nebraska State Bar Association
- 14 State Bar of Georgia
- 18 State Bar of Wisconsin

**Does the bar have, in addition to its governing body, a representative assembly (i.e., House of Delegates) that sets policy for the association?**

*Yes:*

Louisiana State Bar Association  
 Nebraska State Bar Association  
 Rhode Island Bar Association  
 South Carolina Bar  
 State Bar of Nevada

**Does the bar have the following BOARD committees?**

*Finance:*

Hawaii State Bar Association  
 Kentucky Bar Association  
 Nebraska State Bar Association  
 Rhode Island Bar Association  
 South Carolina Bar  
 State Bar of Arizona  
 State Bar of Montana  
 State Bar of Nevada  
 State Bar of New Mexico  
 State Bar of Texas  
 State Bar of Wisconsin  
 The District of Columbia Bar  
 The Florida Bar  
 The Mississippi Bar

The Missouri Bar  
Utah State Bar  
Virginia State Bar  
Washington State Bar Association

*Audit:*

Alaska Bar Association  
Kentucky Bar Association  
Louisiana State Bar Association  
Nebraska State Bar Association  
New Hampshire Bar Association  
State Bar of Arizona  
State Bar of Nevada  
State Bar of Texas  
State Bar of Wisconsin  
The District of Columbia Bar  
The Florida Bar  
The Mississippi Bar  
The State Bar of California  
The West Virginia State Bar  
Utah State Bar  
Washington State Bar Association  
Wyoming State Bar

*Governance:*

Nebraska State Bar Association  
State Bar of Texas  
The District of Columbia Bar  
Wyoming State Bar

*Strategic Planning:*

The State Bar of California  
Washington State Bar Association