

# AGENDA ITEM

**MARCH 111**  
**Report and Proposal from**  
**Redistricting Subcommittee**

DATE: February 19, 2010

TO: Members, Board of Governors  
Members, Board Committee on Operations

FROM: Board Redistricting Subcommittee

SUBJECT: Report and Proposal from Redistricting Subcommittee

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## **EXECUTIVE SUMMARY**

In January 2010, State Bar President Howard Miller appointed a Board Subcommittee on Redistricting (“Subcommittee”) to meet and make recommendations regarding the redistricting of the State Bar Districts for the election of 15 lawyer-governors of the Board of Governors under Business and Professions Code section 6012.5. The statute requires that the “primary consideration” in the adjustment of the districts be the “equitable distribution of attorney members to governors” in each district except District 1. The Subcommittee found, however, that the statutory limitation of 15 governors severely hampers the achievement of an equitable distribution of representation. Consequently, the 4-1 consensus of the Subcommittee is a redistricting plan that would require the addition of two new attorney-governors to the Board. (The proposed legislative amendment and plan are attached as Exhibits C and D.)

In this item, the Subcommittee recommends that the Board authorize the pursuit of legislative amendments to increase from 15 to 17 the number of attorney governors that are elected in State Bar Districts.<sup>1</sup> The Subcommittee also recommends that the Board Committee on Operations release for public comment the proposed redistricting plan and the legislative amendment required for the plan’s implementation.

## **BACKGROUND**

Business and Professions Code section 6012.5, added in 1989 by Statutes 1989, chapter 1223 (Senate Bill No. 818, 1989-1990 Regular Session), requires the Board of Governors to adjust the counties included in State Bar’s nine districts for election of attorney-members of the Board beginning July 1, 1990, and then every subsequent 10 years. The “primary consideration” for adjusting State Bar districts is “equitable

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<sup>1</sup> The Subcommittee acknowledged that appropriately the Legislature or Governor may wish to add to the number of public members appointed by the legislative and executive branch. (See Bus. & Prof. Code, § 6013.5.) .

distribution of attorney members to governors” in each district except for District 1. Specifically, section 6012.5 provides:

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, 1999 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.

The number of attorney members of the board elected from State Bar districts is set by statute at 15. (Bus. & Prof. Code § 6013.1(a).) Before the enactment of Business and Professions Code section 6012.5, the number of districts and counties composing each district was set forth in former Business and Professions Code section 6012, repealed July 1, 1990.<sup>2</sup> By providing that the Board shall adjust the counties included in the State Bar districts as they existed on June 30, 1999, section 6012.5 kept the number of districts at 9.

Following the passage of section 6012.5 in 1989, the Board of Governors adopted the current configuration of State Bar districts. A map showing the outline of the current districts is attached as Exhibit A. The State Bar districts have not been adjusted since 1990. In 1998, in anticipation of the first statutory deadline for the Board to adjust State Bar districts, the Board of Governors created a Task Force on Redistricting. After conducting a redistricting analysis, soliciting public comment and holding public hearings, the Task Force ultimately recommended that the State Bar districts not be reconfigured. This recommendation was based upon the Task Force’s opinion that the ratios of attorney members to governors had not changed substantially enough between 1990 and 1999 to justify the “massive restructuring” that would have been necessary to redraw the lines.<sup>3</sup> In December of 1999, the Board of Governors adopted the recommendations of the Task Force and determined that State Bar districts should not be reconfigured.

In January, President Howard Miller appointed the Board Subcommittee on Redistricting to make recommendations for adjusting the State Bar Districts in 2010 as required by Business and Professions Code section 6012.5.<sup>4</sup> He named the following Governors to the subcommittee to consider possible redistricting proposals and report back to the Board: Joe Chairez; Patrick Kelly; Wells Lyman; Patricia White; and Lowell Carruth.

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<sup>2</sup> After the repeal of former Business and Professions Code section 6012 and the delegation of authority to the Board to adjust the districts, the composition of the 9 State Bar Districts and the allocation of the 15 attorney-governors have been set forth in State Bar rules. (State Bar Rule 6.30; former Rules Regs. State Bar art. IIB, §§ 5, 6.)

<sup>3</sup> Board Task Force on Redistricting Report dated October 12, 1999.

<sup>4</sup> Under State Bar Rule 6.31, the redistricting for 2010 must be completed by July 1, 2010, for the 2011 Board of Governors elections. State Bar Rule 6.31(A) states: “In a year requiring adjustment of the counties included in State Bar Districts, the adjustment must be completed by July 1 for the next year’s Board of Governors election.”

The Subcommittee held 3 meetings to consider the issue of redistricting. The meetings were held on January 25, February 10 and February 16, 2010. They were assisted by the retained services of a professional demographer who is an expert in line drawing and demographic analysis. The Subcommittee received advice from the consultant regarding inequities under the current boundaries as well as structural barriers to perfect equity within the current rules. The Subcommittee also had the consultant draw several possible redistricting plans both within the current rules and assuming alternate rules which would allow for additional attorney governors. A summary of the various plans presented at the meetings and considered by the Subcommittee is contained in Exhibit B.

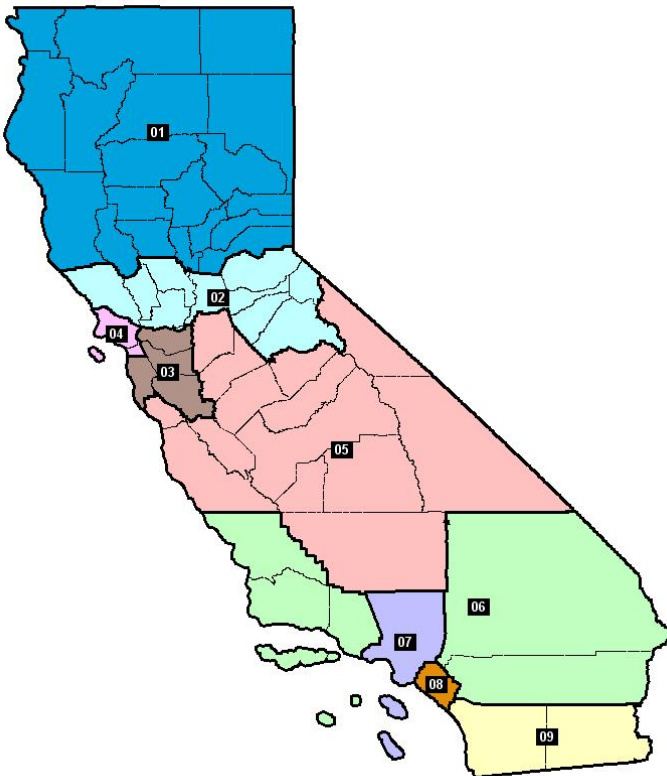
## **FINDINGS AND RECOMMENDATIONS OF THE SUBCOMMITTEE**

### **Inequities Under Current Boundaries**

Since the district boundaries were last adjusted, there have been massive shifts in the state's population. As a result, the ratio of attorney members to governors has become significantly unbalanced.

It should be noted that when equity is discussed, it is only in reference to Districts 2-9. Section 6012.5 specifically exempts District 1 from this standard. It should also be noted all statistics are as of 12/20/2009.

Map:



District	# Attorney Members	# Governors	Attorney Member to Governor Ratio	Ideal Attorney Member to Governor Ratio (District 2-9)	Deviation from Ideal
1	3,689	1	3,689		
2	13,184	1	13,184	12,298	7.2%
3	27,748	2	13,874	12,298	12.8%
4	21,535	2	10,768	12,298	-12.4%
5	7,835	1	7,835	12,298	-36.3%
6	11,803	1	11,803	12,298	-4.0%
7	56,307	5	11,261	12,298	-8.4%
8	16,949	1	16,949	12,298	37.8%
9	16,811	1	16,811	12,298	36.7%

As shown, Districts 8 and 9 have nearly twice as many attorney members per governor as District 5. The total cumulative deviation for all State Bar districts now exceeds 70%; the cumulative deviation for most state and local plans is less than 10%.<sup>5</sup> Because of the population of these districts, any plan increasing equity will tend to shift representation towards Southern California and away from the Central Valley, Los Angeles and portions of the Bay Area.

### **Structural Barriers to Achieving Attorney Member Equity**

The consultant explained that while it may seem simple to achieve equity in Governor to attorney representation among districts, the unique rules which apply to the Bar create some significant challenges. First, the Bar must use whole counties in creating districts, which limits the Bar to 58 units with widely varying populations which can be distributed among the potential districts. Second, since both the number of Governors and the number of districts is set by statute, the Bar is limited to elect a total of 15 governors from 9 districts. If each district has at least one governor, this leaves 6 additional governors to distribute among districts that require more than one governor for adequate representation of members. Four of California's counties have enough

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<sup>5</sup> Total cumulative deviation is reached by adding the deviation for the district that is most underrepresented to the deviation for the district that is most overrepresented.

attorney members to require more than one Governor, as demonstrated by the chart below.

Counties	# Attorney Members	Ideal Attorney Member to Governor Ratio (District 2-9)	Ideal # Governors
Los Angeles	56,307	12,298	4.58
San Francisco	18,626	12,298	1.51
Orange	16,949	12,298	1.38
San Diego	16,646	12,298	1.35

Therefore, the ideal solution would be to have 2 governors each for San Francisco, Orange and San Diego, and 5 governors for Los Angeles. However, since there are only 6 available governors to address the counties which need to have more than one governor, these ideals cannot be achieved. The best plan that the consultant presented under the existing statutory limitations still had a cumulative deviation of 23.8% and had Los Angeles underrepresented at 14.5% over the ideal population. This best case scenario also required moving Bay Area counties such as San Mateo into District 5 with Fresno County, which broke up historic communities of interest.

### **Legislative Proposal to Add 2 Additional Governors**

Since it was not possible to reach an acceptable degree of equity under the current rules, the Subcommittee decided that the best possible solution is to seek a legislative amendment to add additional attorney governors to the Board. The Subcommittee also considered an alternative legislative solution, reducing the statutory number of districts from 9 to 8. However, redistricting under this scenario still required counties from Northern California to be added to District 5 in Central California, which broke up historic communities of interest. For this reason, the Subcommittee does not recommend this option.

Instead the Subcommittee by a 4-1 consensus recommends a statutory amendment which would increase the number of attorney governors on the Board to 17.<sup>6</sup> This allows the additional governors to be added to underrepresented districts without as much moving of counties. The Subcommittee's recommendation would require Section 6011 of the Business and Professions Code to be amended to increase the total number of Board members from 22 to 24. It would also require section 6013.1 of the Business and Professions Code to be amended to reflect the increase in attorney members from 15 to 17. Lastly, it would require amendments to section 6017 of the Business and Professions Code to include the two new seats to the currently listed 15 seats and to incorporate those seats into the staggered schedule for election of the

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<sup>6</sup> As stated *ante* fn. 1, the Subcommittee recognized that appropriately the Legislature may wish to add to the number of public members currently appointed by the Governor, the Senate Committee on Rules, and the Speaker of the Assembly under Business and Professions Code section 6013.5.

attorney-governors on the board. The proposed amendments to the Business and Professions Code are attached as Exhibit C.

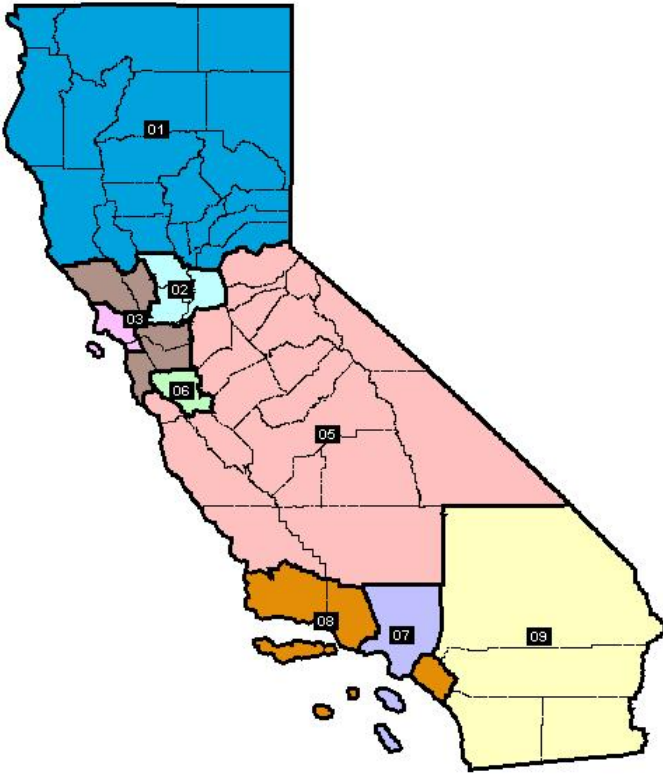
### **Redistricting Plan With The Statutory Amendments**

If the recommended statutory amendments are adopted, adjusting the composition of the districts will still be needed.

At the Subcommittee's final meeting on February 16, the consultant presented the Subcommittee with three possible plans with the two additional seats. In one of the plans ("Scenario E," Exhibit B, pp. 29-31), the two new governors are added to Districts 3 and 8, without moving any counties between districts. The result was that the cumulative deviation moved from the current 74.1% to 83.4%. Thus some redistricting is also necessary to maximize equity even after 2 additional attorney governors are added to the Board.

The Subcommittee then considered the other 2 proposals. One scenario involved combining Orange and San Diego counties into a single district with 3 governors. ("Scenario G," Exhibit B, pp. 33-35.) However, the 4-1 consensus of the Subcommittee was to recommend the remaining proposal, which kept Orange and San Diego counties in separate districts but balanced the districts by collapsing District 6 and adding its counties into Districts 8 and 9. ("Scenario F" Exhibit B, pp. 31-33.) The Subcommittee found this scenario to be more consistent with the existing communities of interest. Each of the redrawn Districts 8 and 9 would receive one of the two new governors. District 8 gains Santa Barbara and Ventura counties from District 6 while District 9 gains Riverside and San Bernardino counties from District 6. The existing District 6 is collapsed and reappears in Northern California containing just Santa Clara county. The following map illustrates the plan recommended by the Subcommittee:

**Map:**



**Description of Changes:**

*District 1:* No changes.

*District 2:* Loses Alpine, Amador, Calaveras, El Dorado, Napa, Sonoma and Tuolumne.

*District 3:* Split into two districts. Loses Santa Clara. Adds Napa and Sonoma.

*District 4:* No changes.

*District 5:* Adds Alpine, Amador, Calaveras, El Dorado, San Luis Obispo and Tuolumne.

*District 6:* Collapsed as a result of adding governors to Districts 8 and 9. The district reappears in Northern California as part of the split of District 3. New district loses Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura and adds Santa Clara.

*District 7:* No changes.

*District 8:* Adds one governor. Adds Santa Barbara and Ventura.

*District 9:* Adds one governor. Adds Riverside and San Bernardino.

Under this proposal, the cumulative deviation for all State Bar districts is reduced down to 19.1% from the current 74.1%.

**Statistics:**

District	# Attorney Members	# Governors	Attorney Member to Governor Ratio	Ideal Attorney Member to Governor Ratio (District 2-9)	Deviation from Ideal
1	3,689	1	3,689		
2	10,087	1	10,087	10,761	-6.3%
3	20,000	2	10,000	10,761	-7.1%
4	21,535	2	10,768	10,761	0.1%
5	9,390	1	9,390	10,761	-12.7%
6	10,163	1	10,163	10,761	-5.6%
7	56,307	5	11,261	10,761	4.7%
8	21,783	2	10,892	10,761	1.2%
9	22,907	2	11,454	10,761	6.4%

**RECOMMENDATIONS**

The Subcommittee recommends that the Board of Governors authorize the pursuit of amendments to the Business and Professions Code to increase the number of attorney members of the Board from 15 to 17. The proposed amendments to the Business and Professions Code are attached as Exhibit C. If there is legislative enactment of these amendments, the Subcommittee also recommends that the Board of Governors then adopt the redistricting plan described above, which would add one additional governor each to Districts 8 and 9 and also add the counties which currently comprise District 6 into Districts 8 and 9. This redistricting would require amendment of Rule 6.30 of the State Bar Rules. A copy of the proposed amendment to Rule 6.30 is attached as Exhibit D.

The Subcommittee also recommends that both the proposed statutory and rule amendments be released for a 45 day public comment period.

**FISCAL IMPACT**

Added support costs associated with 2 additional Board members.

**BOARD BOOK IMPACT**

Tab 4, Articles 1 and 3.

## PROPOSED RESOLUTIONS

### Board Committee on Operations:

Should the Board Committee agree with the recommendation, adoption of the following resolution would be appropriate:

**RESOLVED**, that the Board Committee on Operations hereby recommends that the Board of Governors direct staff to pursue amendments to the Business and Professions Code which would increase the number of attorney members on the Board of Governors from 15 to 17; and it is

**FURTHER RESOLVED**, that, if the Board of Governors adopts the resolution recommended by the Board Committee on Operations regarding redistricting, the Board Committee on Operations authorizes for publication, in the form attached as Exhibits B and C, for a forty-five day comment period from March 8 to April 21, 2010, the proposed amendments to the Business and Professions Code and the proposed redistricting plan; and it is

**FURTHER RESOLVED**, that publication of the foregoing is not, and shall not be construed as, a recommendation of approval by the Board Committee.

### Board of Governors:

Should the Board of Governors agree with the recommendation of the Board Committee on Operations, adoption of the following resolution would be appropriate:

**RESOLVED**, that upon recommendation of the Board Committee on Operations, the Board of Governors hereby directs staff to pursue amendments to the Business and Professions Code which would increase the number of attorney members on the Board of Governors from 15 to 17.

### Attachments:

- A: Map of Current State Bar Districts
- B: Summary of Redistricting Proposals Considered
- C: Proposed Amendments to the Business and Professions Code
- D: Proposed Amendments to Rule 6.30 of State Bar Rules