



## PUBLIC LAW SECTION

THE STATE BAR OF CALIFORNIA

April 13, 2011

Members of the Committee  
Governance in the Public Interest Task Force  
180 Howard St.  
San Francisco, CA 94111

Ladies and Gentlemen:

On behalf of the Public Law Section of the State Bar of California, I am writing to express concerns of the Section's Executive Committee regarding current proposals to restructure the licensing and disciplinary functions of the State Bar and the composition of the State Bar Board of Governors. If the public interest is not being served by the current system, as public law attorneys we hold a unique position and share a commitment to rectify the deficiencies if they exist. We request that you consider the following points recently discussed by our Committee:

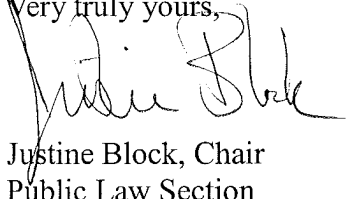
1. We agree with the positions and concerns expressed in the letter dated March 24, 2011, sent by the Taxation Section of the State Bar, especially the preservation of statewide diversity of representation on the Board of Governors that is achieved by local elections of representatives, who must be attorneys in good standing. We also believe that a majority of the Board should be attorneys. Another concern of the Taxation Section we strongly agree with is that, unless public members of the Board are given the same education on attorney ethics as attorneys are given, the public members will not be as attuned as attorneys to the issues presented to the Board on attorney discipline matters.
2. Based on the information provided to us, it appears that there was a lack of adequate notice for public comment on the proposed report and that the comment period was too short. We suggest that the public comment period be reopened so that both attorney groups and public interest groups are able to comment.
3. We urge the task force to consider what other states are doing in the administration of attorney disciplinary proceedings and effectiveness of these systems.
4. We request that the task force analyze the economic impacts and costs of bifurcating the licensing and disciplinary functions of the State Bar. Perhaps modifications to the current system would be less expensive but achieve the desired result. An example of such modification would be to explore whether it would be more cost effective to provide more resources to the disciplinary activities of the State Bar than to bifurcate. Another example is to examine the standards of prosecutorial discretion and to modify them to achieve the goal of protecting the public by disbarring a larger number of unethical attorneys.

5. Finally, we urge the task force to study comparatively the results of professional discipline among the various professions in California. Statistical analysis will assist the task force in determining whether the perceived lack of self-discipline has a factual basis. For example, among each group of licensed professionals in the state, what are the annual percentages of de-licensing for each? Are they comparatively higher or lower for attorneys than other professionals? If the percentages of discipline are higher in the legal profession, this shows that the system in place is effectively taking unethical lawyers out of practice. Bifurcation may disrupt such effectiveness.

Although the timeframe is short for the task force to finalize its report, we are concerned that without further research and analysis of current proposals any resulting legislative changes may not achieve better protection for the public from unscrupulous professionals.

Thank you for the opportunity to express our views on this important matter. If you have any questions regarding our comments, please contact me at (310) 927-4341 or [Block@scag.ca.gov](mailto:Block@scag.ca.gov)

Very truly yours,



Justine Block, Chair  
Public Law Section

cc: The Board of Governors, State Bar of California  
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