

**Report and Recommendations
of the
State Bar of California
Governance in the Public Interest
Task Force**



**Submitted to the
California Supreme Court, the Governor, and the Assembly
and Senate Committees on Judiciary**

**by
The State Bar of California
May 11, 2011**

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I. INTRODUCTION

The 2011 State Bar Fee Bill,¹ approved by the Legislature and signed by the Governor in September 2010, included new Business and Professions Code, section 6001.2, requiring the creation of a Governance in the Public Interest Task Force (“Task Force”). The Task Force is charged with preparing and submitting a report to the California Supreme Court (“Supreme Court” or “the Court”), the Governor, and the Assembly and Senate Committees on Judiciary that includes recommendations for “enhancing the protection of the public and ensuring that protection of the public is the highest priority in the licensing, regulation, and discipline of attorneys.”² Appointed and chaired by the President of the State Bar Board of Governors (“Board”) under the authority of Business and Professions Code, section 6001.2, subdivision (a), the 11-member Task Force is comprised of both attorney and public members of the Board. Six ex-officio members appointed by the President complete the Task Force. A due date of May 15, 2011 was set for the initial report of the Task Force, with subsequent reports due every three years thereafter.

Given the scope of the Legislature’s directive and the expedited timeframe in which to file the initial report, the Task Force focused primarily on the one area essential to the system charged with ensuring public protection – the governance structure of the State Bar of California (“State Bar” or “the Bar”). Central to its charge, the Task Force reviewed the policy-setting and governance model of the current Board and made recommendations to improve the existing system so as to best advance the goals of ensuring public protection and assisting the Supreme Court in the exercise of its statutory and inherent authority over the admission and discipline of California attorneys. This Task Force’s inquiry and response involved careful analysis of the

¹ Assembly Bill No. 2764.

² Business and Professions Code, section 6001.2, effective January 1, 2011.

size of the governing board, the composition and terms of its members, the selection process for Board members and the President, the qualifications of Board members, transparency of Board meetings, and the overall fundamental purpose of the State Bar in making public protection the governing board's highest priority. The analysis included a survey of other state boards in California and State Bars nationwide.

Before finalizing its recommendations, the Task Force held 12 public meetings in a manner consistent with the open/closed meeting requirements of Business and Professions Code, section 6026.5. Key issues were identified, discussed and debated. Decisions were made only after the Task Force reached out to and considered input from attorneys, bar associations, members of the public, and consumer groups and organizations. Public hearings were held and a survey conducted, in which all interested parties were given the opportunity to raise their concerns and participate in the process. In addition, experts were consulted, extensive research was undertaken, and available literature and reports were considered. All information, including meeting notices and agendas, and all materials submitted to the Task Force and entered into the record, was posted electronically on the State Bar's Web site and made readily accessible.³

The Task Force now makes its final recommendations. Both the majority and minority recommendations are summarized below, as are recommendations upon which all Task Force members agree.

A. Executive Summary: Majority Report and Minority Report

Business and Professions Code, section 6001.2(b), provides that "[i]f the task force does not reach a consensus on all of the recommendations in its report, the dissenting members of the task force may prepare and submit a dissenting report to the same entities described in this

³ For a copy of any document listed in Appendix A, Task Force Records, please contact Amy C. Anderson, in the Office of General Counsel at (415) 538-2539 or by email, amy.anderson@calbar.ca.gov. Please indicate whether you require the document in an accessible format, such as Braille, large print, or any other accessible format.

subdivision, to be reviewed by the committees in the same manner.” After months of consideration and deliberation, consensus could not be reached on all recommendations, specifically those focusing on key areas, such as the size, composition, and manner of selection of the governing board.⁴ Accordingly, the majority’s proposal⁵ and the minority’s proposal⁶ are included in this report.

1. Summary of the Majority Report

The Majority Report of the Task Force proposes a hybrid board model, with a 23-member board composed of appointed public members, and both appointed and elected attorney members. This model sets forth statutory governance changes and Board-approved internal changes. In summary, the recommendations included in the Majority Report are:

Statutory Governance Changes:

- (1) Create a 23-member board, with 12 attorney members elected from five reconfigured districts, three attorney members appointed by the Supreme Court, one California Young Lawyers Association member, six public members appointed pursuant to existing statute, and a President;
- (2) Create five new electoral districts for the 12 elected attorney members roughly based on existing District Court of Appeal boundaries;
- (3) Implement a three-year phase-in plan so that current members would not be required to resign or serve shortened terms;
- (4) Establish a new appointing authority under the auspices of the Supreme Court (the Merit Screening Committee) for three at-large appointees;

⁴ Although the Task Force could not reach agreement on all recommendations, both the majority and minority were in agreement with respect to several elements of change: (1) renaming the Board of Governors to “Board of Trustees,” and Board members to “Trustees”; (2) including Supreme Court appointments on the Board (although the number of appointments varied between the majority and minority); (3) creating a Merit Screening Committee to screen, evaluate and recommend attorney applicants to the Court for the Court’s appointment to the Board; and (4) making members of the Board eligible for reappointment.

⁵ Approved by Task Force Members Jon Streeter, Angela Davis, Gwen Moore, Wells Lyman, Lowell Carruth, Loren Kieve, and Luis Rodriguez.

⁶ Approved by Task Force Members William Hebert, Dennis Mangers, Jeannine English, and Michael Tenenbaum.

- (5) Permit elected members and appointed members to serve staggered three-year terms, with the appointed members eligible for reappointment and the elected members eligible to run for a second term only after a one-term hiatus but eligible for appointment to second successive term;
- (6) Change the name “Board of Governors” to “Board of Trustees,” and rename the Board members to “Trustees”;
- (7) Adopt minimum qualification criteria for all Board members, including the adoption of a new conflict of interest rule and a prerequisite of a high level of familiarity and interest in the State Bar’s mission and responsibilities; and

Internal Governance Changes:

- (8) Require that the Regulation, Admission and Discipline Committee (“RAD”) and the Member Oversight Committee (“MOC”) include at least 40 percent public members and at least one of the Supreme Court appointees;
- (9) Request the Board to consider making a variety of internal governance changes by revising the “Board Book” rules to bring about improved strategic continuity and improved communication and responsiveness to the public, the Legislature, the Governor and the Supreme Court.

2. Summary of the Minority Report

The Minority Report of the Task Force, referred to as the “All-Appointed Proposal,” proposes a smaller, 15-member, all-appointed governance board where all attorney members are appointed by the Supreme Court and the public members are appointed pursuant to the existing statutory scheme. In summary, the recommendations included in the Minority Report are:

- (1) Create a 15-member all-appointed board, composed of nine attorney and six public members with the President included as one member of the 15-member board;
- (2) Attorney members appointed by the Supreme Court; public members appointed under current statute;
- (3) Attorney members to serve three-year term, staggered, subject to re-appointment by the Supreme Court; no change to appointment of public members;

- (4) Permit non-resident attorneys admitted in California to serve on the Board;
- (5) President appointed by the Supreme Court;
- (6) Supreme Court may establish a Merit Screening Committee to solicit, screen and evaluate applications for attorney appointments;
- (7) Rename the Board of Governors to the Board of Trustees;
- (8) Require all Board members to take an oath making public protection a priority;
- (9) Revise Business and Professions Code, section 6031(a), to include language making public protection paramount;
- (10) Require the State Bar to make at least 25 hours of continuing legal education in ethics available to members at no charge;
- (11) Recommend that the Board adopt the Bagley-Keene Open Meeting Act (“Bagley-Keene” or “the Act”)⁷ in its entirety or incorporate substantially all of the Act’s provisions into the existing open meeting rules; and
- (12) Recommend that the Legislature and Governor direct the Task Force to report back by May 15, 2013, on whether the unified bar advances public protection.

⁷ Govt. Code, §§ 11120-11132.

II. BACKGROUND

A. Task Force Creation and Charge

As set forth above, the Task Force was created to submit a report and recommendations to the Supreme Court, the Governor, and the Assembly and Senate Committees on Judiciary, on or before May 15, 2011, and every three years thereafter. The recommendations address the most effective means of enhancing the protection of the public and ensuring that protection of the public is the highest priority in the licensing, regulation, and discipline of attorneys.

At its November 9, 2010 meeting, the Task Force adopted the following charge to implement the Legislative mandate:

Pursuant to Business and Professions Code, section 6001.2, subdivision (b), the State Bar of California's Governance in the Public Interest Task Force ("Governance Task Force") is charged with making recommendations for enhancing protection of the public and ensuring that public protection is the highest priority in the licensing, regulation and discipline of attorneys. Central to this charge is a review of the governance structure of the State Bar of California. The State Bar assists the Supreme Court in regulating the legal profession, works to improve the administration of justice and access to the courts, and provides services to assist attorneys. The Governance Task Force shall review the policy setting and governance model of the current State Bar of California Board of Governors. The Governance Task Force shall make recommendations (including the structure of the Board, its composition and the selection process for the members) to best advance the goals of ensuring public protection and assisting the California Supreme Court in the exercise of its statutory and inherent authority over the admission and discipline of California attorneys. (See, e.g., *Obrien v. Jones* (2000) 23 Cal.4th 40; *In re Attorney Discipline System* (1998) 19 Cal.4th 582.)

B. Task Force Composition

Pursuant to Business and Professions Code, section 6001.2, subdivision (a), the President of the State Bar appointed 10 members from the Board (seven attorney members and three public members) to serve on the Task Force. The President also served as both member and chair of the Task Force, responsible for presiding over all of its meetings. Separate from the statutory

mandate, the President also appointed five ex-officio members based on areas of expertise relevant to the Task Force's charge. The participants in the Task Force are:

Chair:

William Hebert, President, State Bar of California, San Francisco

Members:

Lowell Carruth, Second-year attorney member, Fresno

Angela Davis, Third-year attorney member, Los Angeles

Jeannine English, Third-year public member, San Francisco

Loren Kieve, First-year attorney member, San Francisco

Wells Lyman, Second-year attorney member, La Mesa

Dennis Mangers, First-year public member, Carmichael

Gwen Moore, Second-year public member, Los Angeles

Luis Rodriguez, First-year, attorney member, Los Angeles

John Streeter, Third-year attorney member, San Francisco

Michael Tenenbaum, Third-year attorney member, Thousand Oaks

Ex-Officio Members:

Beth Jay, Principal Attorney to the Chief Justice, California Supreme Court

Joe Dunn, Executive Director, State Bar of California

Judy Johnson, Executive Director Emerita, State Bar of California

Gayle Murphy, Senior Executive, Office of Admissions

JoAnn Remke, Presiding Judge, State Bar Court

James Towery, Chief Trial Counsel

C. Historical Background of the Governance Structure for the State Bar of California

The State Bar, created in 1927 by the Legislature and adopted into the California Constitution in 1960, is a public corporation in the judicial branch of government. The State Bar is a unified, or mandatory, bar. The key attributes of this judicial branch attorney regulatory model are mandatory membership and the payment of an annual fee, by all attorneys who are licensed to practice law in the state. For purposes of this report the term “unified” is adopted. In a unified bar, traditional regulatory functions (discipline, admissions, and education) may be combined with non-regulatory activities (annual meetings and social functions, obtaining member discounts for cars and insurance, and political lobbying related to the administration of justice). (See *Lathrop v. Donohue*, 367 U.S. 820, 832-34 (1961); *Keller v. State Bar of California*, 496 U.S. 1, 5 (1990).)

When the Legislature created the State Bar in 1927, the Board consisted of 15 members, 11 of whom were elected from congressional districts and four of whom were elected at-large. The Board, then as now, as the governing body of the State Bar, has only those powers and duties conferred on it by the Supreme Court or Legislature. Moreover, it is the Supreme Court that is ultimately responsible for discipline or admission of members. (See Bus. & Prof. Code, § 6087.)

In 1975, the public member statute was enacted, allowing six public, non-attorney members to be appointed to serve on the Board. Four public members were appointed by the Governor, one by the Senate Committee on Rules, and one by the Speaker of the Assembly. (Bus. & Prof. Code, § 6013.5, State Bar Act: Stats. 1975, Ch. 874.) In 1978, the young lawyer statute was added, providing that one additional member from the California Young Lawyers Association would be elected to the Board by the board of directors of the California Young

Lawyers Association. The young lawyer member must be under 37 years of age at the time of election or have less than five years of practice. (Bus. & Prof. Code, § 6013, State Act: Stats. 1978, Ch. 1223; Bus. & Prof. Code, § 6013.4, State Bar Act: Stats. 1978, Ch. 995.)

Since 1978, the State Bar's Board consists of 23 members: 15 are attorneys elected by members of the State Bar with a sixteenth appointed by the Board from the California Young Lawyers Association; six are public members. Of these public members, four are appointed by the Governor, one is appointed by the Senate Committee on Rules, and one is appointed by the Speaker of the Assembly. The President serves as the twenty-third member of the Board and is elected by the Board from members of the third-year class to serve a fourth year as the State Bar's President (Bus. & Prof. Code, § 6021).

The Board's oversight of the State Bar's unified activities, including its primary duty as the administrative arm of the Supreme Court in the admission of attorneys to practice law in California and the discipline of California attorneys, has been the subject of scrutiny from the Legislature as part of its annual review fee setting process, and both internal and external sources. (See Report of the Commission on the Future of the Legal Profession and the State Bar of California (1995); the American Bar Association (ABA California Report on Lawyer Regulation System (2001); the Supreme Court's Advisory Committee on Lawyer Regulation (2002-2003); and now the Task Force on Governance in the Public Interest.) The premise underlying all of these inquiries has been to ensure that the State Bar of California is carrying out its primary mission of protecting the public and assisting the judicial branch in the orderly and efficient administration of justice.

In addition to the vigilance of the Supreme Court, Legislature and the American Bar Association, the State Bar has been the subject of judicial decisions and legislative mandates all aimed at improving the State Bar's focus on its main priorities.

1. Limitation of Role in the Discipline System

For most of its history, the State Bar's disciplinary system has operated primarily with the assistance of volunteers, who acted as referees and made recommendations to the Board. The Board, in turn, made recommendations to the Supreme Court regarding the discipline of attorneys. In the mid-1980s, this system changed when the Legislature enacted various reforms to the State Bar Act in response to a substantial backlog of complaints against attorneys, a series of newspaper articles about major inadequacies in the existing disciplinary system, and the reports and recommendations of the legislatively-appointed Discipline Monitor, Robert C. Fellmeth. (See *In re Attorney Discipline System*, *supra*, 19 Cal.4th at p. 611.) Among other things, the legislative reforms included:

- The establishment of a State Bar Court, with judges appointed by the Supreme Court and later by the Governor and Legislature, to replace the volunteer system and the Board's involvement with disciplinary functions. (Bus. & Prof. Code, § 6086.5; see *In re Attorney Discipline System*, *supra*, 19 Cal.4th at p. 611; *O'Brien v. Jones*, *supra*, 23 Cal.4th at p. 50.)
- The appointment of the Chief Trial Counsel, subject to confirmation by the Legislature, with a four-year term and a two-term limit, under the general oversight of the Board's Committee on Regulation, Admissions and Discipline. (Bus. & Prof. Code, § 6079.5.)

2. Restrictions in Professional Association Matters

Business and Professions Code, section 6031, provides that the Board “may aid in all matters pertaining to ... the administration of justice, including ... all matters that advance the professional interests of the members of the State Bar.” Under this statute, the State Bar has engaged in various professional association activities. (See *Keller v. State Bar of California*, *supra*, 496 U.S. at p. 5.) Beginning in 1990, the courts and Legislature have placed restrictions on the scope of these non-regulatory activities.

- In *Keller*, the United States Supreme Court prohibited the State Bar from funding activities under Business and Professions Code, section 6031, unless activities were germane to the State Bar’s purpose of regulating attorneys or improving legal services. [“Here the compelled association and integrated bar are justified by the State’s interest in regulating the legal profession and improving the quality of legal services. The State Bar may therefore constitutionally fund activities germane to those goals out of the mandatory dues of all members. It may not, however, in such manner fund activities of an ideological nature which fall outside of those areas of activity. (*Id.* at 13.)]
- In 1997, then-Governor Pete Wilson vetoed the bill authorizing the State Bar to continue to collect its mandatory membership fees. Governor Wilson’s veto message cited arguments that the State Bar cannot “function effectively as both a regulatory and disciplinary agency as well as a trade organization” and noted that the State Bar had been “conducting business as usual while offering a minuscule rebate to those opposed.” The Governor’s message concluded, “It is time for the Bar to get back to basics: admissions, discipline and educational standards. I would look with favor upon a bill that required Bar members to pay only for functions which were, in fact, a mandatory part of a

responsible, cost efficient regulatory process.” (Veto Message, Cal. Sen. Bill No. 1145, Oct. 11, 1997.) When the Legislature finally enacted a bill to restore funding in 2000 (Cal. Stats. 1999, Ch. 342, Cal. Sen. Bill No. 144 (1999-2000 Reg. Sess.) (Schiff) §§ 1.5, 6), the measure included:

- A prohibition on the funding of State Bar Sections and the Conference of Delegates with any mandatory bar dues.
- A requirement that the State Bar offer a five-dollar deduction from mandatory bar dues for any legislative lobbying and that the State Bar limit its expenditure for legislative activity to only those revenues paid voluntary by members not taking the five-dollar deduction.

Non-regulatory functions were further constrained by *Brosterhous v. State Bar of California*, (Sept. 24, 1999, 95AS03901 [nonpub. opn.]), where the trial court further narrowed the chargeability test, finding that in order to be germane, an activity must have a simple, direct connection between the activity and the core purposes of the integrated bar, i.e. regulation of the profession or improvement of the quality of legal services available to the people of California. [“In the instant case, defendant’s explanations for the connection between the activity and the core purposes of the bar frequently involved more than a simple, direct connection. . . If the connection cannot be made directly, the activity is simply too attenuated.”] The “improvement of the quality of legal services” prong also narrowed significantly: in order to qualify under this test, an activity must pertain directly to the services provided by an attorney to his or her client.

D. Governance Models for Other States

Among the 50 states and the District of Columbia, there are a variety of programs, functions and funding sources for the attorney discipline systems.⁸ There are 33 unified bars⁹ and 18 voluntary bars.¹⁰ The governance models of each bar are highly reflective of local custom and practice, the diversity of the profession, and differing perceptions of what is the appropriate role of members of the public, attorneys, the judiciary and the Legislature in the regulation of the profession. Generally, it is common among all state models that the oversight boards, whether in integrated or voluntary states, are comprised of between seven and 26 members. Public members, frequently selected by the Supreme Courts, serve on almost all oversight boards. All models share one overriding concept – the court of highest jurisdiction exercises plenary power over the discipline system.

While each system has its nuances, there are three basic attorney discipline system governance models evident in the United States. California's model is unique and does not fit exclusively into any of the basic models. Perhaps the most unique feature of California's model is the absence of any Supreme Court role in the vetting of, or appointments to, the Board of Governors. Moreover, California stands alone in the Supreme Court's active cooperation with the Legislature in regulating the State Bar. In short, although unique in these two respects, California shares the necessary hallmarks of a unified bar's compelled membership with a mandatory fee and the Supreme Court's plenary power over discipline and admission.

⁸ Task Force Record 10, Other States' Governance Models – Report from Subcommittee.

⁹ Washington, Oregon, California, Nevada, Idaho, Utah, New Mexico, Arizona, Wyoming, Montana, North Dakota, South Dakota, Nebraska, Oklahoma, Texas, Missouri, Louisiana, Wisconsin, Kentucky, Mississippi, Michigan, Alabama, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, New Hampshire, Rhode Island, District of Columbia, Alaska and Hawaii.

¹⁰ Colorado, Kansas, Minnesota, Iowa, Arkansas, Illinois, Indiana, Tennessee, Ohio, Pennsylvania, Maryland, New York, Maine, Vermont, Massachusetts, Connecticut, New Jersey and Delaware.

Twenty of the 51 jurisdictions maintain a predominant integrated bar model in which day-to-day operational responsibility for the discipline system resides in the integrated bar, pursuant to legislation or Supreme Court rule. In these jurisdictions, the state bar generally oversees all functions, appoints and hires the chief prosecutor, assesses and collects fees, and appoints some or all of the adjudicators. Frequently, a disciplinary board, separate from the bar governors/directors, is responsible for overseeing these regulatory functions. Often, the state's Supreme Court exercises direct oversight and direction through its power of appointment to discipline boards operating within the general structure of the bar.

The functions of the unified bars in the United States were summarized in the 1995 Final Report of the Commission on the Future of the Legal Profession and the State Bar of California:

Unified state bars in different states perform a wide range of different functions. In some states, including California, Florida and Texas, the state bar performs a wide variety of both regulatory and non-regulatory activities, including administering attorney discipline, a client security fund, and MCLE. This is a pattern for most unified bars on the West Coast. The unified bars in California, Oregon and Washington all conduct attorney discipline functions as do those in Nevada and Utah.

In other states, such as Michigan and Wisconsin, the unified bar is responsible for very few regulatory activities; admissions, discipline or other regulatory functions are performed by a Supreme Court agency. Some unified bars that do not operate the licensing system collect fees for the Supreme Court licensing agency. In states with a Supreme Court licensing agency, the Supreme Court typically appoints a disciplinary board that operates the agency. Unified bars that perform few regulatory functions primarily focus on professionalism concerns, e.g., proposing rules of professional conduct, providing ethics advice and improving the administration of justice, including their legislative program. No unified bars perform only regulatory functions. In a few states, there is both a unified and voluntary bar; however, even in these states the unified bar conducts professionalism and administration of justice activities.¹¹

Eighteen of the 51 jurisdictions maintain a predominant voluntary bar model, in which the Supreme Court, usually by rule of court, creates a board, commission or agency responsible

¹¹ Task Force Record 36, The Future of the California Bar, Final Report of the Commission of the Future of the Legal Profession and the State Bar of California, State Bar of California, April 1995.

for the oversight of the disciplinary system. In this model, the voluntary state bar association is a stakeholder in the system rather than the governing body responsible for oversight of the day-to-day operation. In almost all models under this category, the Supreme Court makes all of the appointments to the regulatory governing body. Attorneys are required to pay a special assessment, as a condition of practice, to support the discipline oversight entity. A voluntary bar association is a stakeholder in the system rather than the governing body responsible for the operational oversight. Typically, this model limits itself to discipline-related functions and peripheral functions, such as fee arbitration and lawyer assistance programs, and falls within the “member services” ambit of the voluntary bar association.

Finally, 13 of the 51 jurisdictions employ a “hybrid integrated model,” including attributes of both the integrated and voluntary bar models. It is similar to the integrated bar model because an attorney must belong to the bar in order to practice law. Typically, however, the Supreme Court has created a disciplinary oversight board, commission or agency to oversee the disciplinary (discipline) functions separate from the integrated bar. The Supreme Court assesses fees directly for both the disciplinary agency and the mandatory bar for more traditional bar association activities and usually, but not exclusively, appoints the members of the oversight board, commission, or agency.

The models and experience in all the other states make it clear that there is no one model required to discharge the regulatory responsibilities that courts and legislature delegate to attorney oversight agencies.

E. Governance Models for Other Public Agencies

The Task Force conducted a review of eight professional regulatory boards housed within the Department of Consumer Affairs (“DCA”), and additionally considered the governance

structure of the California Commission on Judicial Performance and the UC Board of Regents.¹²

The entities evaluated included:

- Architects Board
- Dental Board
- Medical Board
- Board for Professional Engineers and Land Surveyors
- Board of Pharmacy
- Board of Registered Nurses
- Board of Psychology
- Accountants Board
- Commission on Judicial Performance
- UC Board of Regents

The evaluation of these regulatory bodies revealed generalities in terms of the number of board members typically seated on the governing boards, the ratio of public members to licensees and the appointment processes employed.

Number of Board Members

All DCA Boards surveyed have 15 or fewer board members. There are two nine-member boards (Nursing, Psychology), one 10-member board (Architects), one 12-member board (Engineers), one 13-member board (Pharmacy), one 14-member board (Dental Board), and two 15-member boards (Accountancy and Medical Board). The Commission on Judicial Performance has 11 members on its board. The Regents of the University of California has 26 members.

Public Member/Licensee Ratios

Six of eight DCA boards surveyed have licensee majorities, one (Engineers) has a public member majority, and one (Architects) has an equal number of licensee and public members. Seven of the eight DCA boards surveyed have compositions in which the majority/minority member number difference is two or one. Only the Dental Board has a difference of six between

¹² Task Force Record 11, Other State Licensing Agencies – Report from Subcommittee.

the number of majority and minority members. The Commission on Judicial Performance has a public member majority. The Regents of the University of California has 18 “public” (or Non-Judicial) members (two of these “public” members are attorney members).

Appointment Processes

All of the DCA boards surveyed have *all* of their licensee members appointed by the Governor. Only the Medical Board additionally requires confirmation of those appointments by the Senate. All of the DCA boards surveyed allow the Governor to appoint at least half of the public members. All of the DCA boards surveyed allow the Senate Rules Committee and the Speaker of the Assembly to appoint at least one public member each. The Commission on Judicial Performance allows the Governor to appoint two public members and two attorney members, and the Senate Rules Committee and the Speaker of the Assembly to appoint two public members each. The Regents of the University of California allows the Governor to appoint 18 Regents and additionally consists of one student appointed by the Regents to a one-year term; seven ex-officio members: Governor, Lieutenant Governor, Speaker of the Assembly, Superintendent of Public Instruction, President and Vice-President of the Alumni Association and the UC President. Two faculty members and the Vice-Chair of the Academic Council also sit as non-voting members.

F. Process Of Developing Task Force Recommendations

1. Task Force Meeting Process

Over the course of nine months, the Task Force met 12 times,¹³ drafting and adopting the charge of the Task Force, considering and discussing proposals regarding various governance models and other issues related to ensuring public protection, and developing and voting on the

¹³ Task Force meetings were held on: September 26, October 6, November 9, November 20, and December 3, 2010, January 20 [Public Hearing, Los Angeles], January 27 [Public Hearing, San Francisco], February 8, March 2, March 25, April 13, and May 5, 2011.

final recommendations. Attendees had the opportunity to appear either in person, on video conference or by telephone. Two public hearings were held, one in Los Angeles and one in San Francisco.

Business and Professions Code, section 6001.2, effective January 1, 2011, required the creation of the Task Force on or before February 1, 2011. To ensure that sufficient time was dedicated to meeting the requirements of the Legislature, the initial organizational meeting of the Task Force was held on September 26, 2010, at the State Bar Annual meeting. Additional meetings were held through May 2011, at which time the initial report was submitted.¹⁴

At the meeting on October 6, 2010, the Task Force established an outline for organizational issues, including the types of information to be gathered, the format for public hearings, and the timing of the draft report.

At the meeting on November 9, 2010, a subcommittee of the Task Force presented a proposed Task Force charge, which was discussed, edited, and adopted by the full Task Force. Discussion also focused on the concerns of the Legislature, which led to the creation of the Task Force, and the top challenges relevant to the charge were listed and discussed.¹⁵

At the meeting on November 20, 2010, the Task Force received a report on Bagley-Keene, outlining the material differences between it and the current State Bar open/closed meeting rules. Further discussion focused on formulating a specific request for information to be

¹⁴ See Task Force “Notice and Agenda” items contained in Appendix A, Task Force Records, of this report for a full overview of the matters discussed and action taken at each meeting.

¹⁵ The list included the following: (1) elected members encourage a constituent-based board; (2) conflict of attorneys regulating attorneys; (3) high turnover of experienced Board members each year/continuity; (4) merit selection process/qualifications – Business and Professions Code, sections 450, 450.2, and 450.5; (5) how the president is selected/length of term/ladder; (6) maintaining separation of powers; (7) protocol of president vis-à-vis staff; (8) size of board/ratio and public members v. attorney members; (9) inclusion of language in the statute ensuring and enhancing public protection; (10) should California continue as an integrated bar; (11) communications and transparency re the State Bar’s role; (12) and application of Bagley-Keene.

sent to members of the public and the profession. A proposed distribution list was also discussed.

At the meeting on December 3, 2010, after discussion, the Task Force agreed to distribute a request for information to the public, with distribution to include the Board's subscription list and California public interest groups and organizations. The Chair of the Task Force noted that he would be making presentations to and/or speaking with local bar associations throughout California regarding the purpose of the Task Force and providing information on public hearings and the request for information.

On January 20, 2011, the first public hearing was held in Los Angeles. Eleven speakers appeared. On January 27, 2011, the second public hearing was held in San Francisco. Ten speakers appeared.

At the meeting on February 8, 2011, the subject of the application of Bagley-Keene was further discussed and it was determined that the application of Bagley-Keene to the State Bar should be addressed by the Board. While this action did not preclude the Task Force from making its own recommendations with respect to the adoption of all or part of Bagley-Keene as part of its final report, it was felt that the Board should review the application of the Act in the first instance to determine its operational effect on the organization prior to adoption of that recommendation.

On February 8, 2011, the Chair presented the first of several governance models to synthesize the research conducted to date and to spark the process of formulating recommendations to be considered by the Task Force.¹⁶ This "All-Appointed Model" proposed, among other components, a board of less than 23 members comprised of attorney members

¹⁶ See Task Force Records, 45-49, 53, 60, and 61 for all model proposals considered by the Task Force.

appointed by the Supreme Court, public members appointed pursuant to the existing statutory scheme, and a president.

At the meeting on March 2, 2011, four hybrid governance models, which proposed a governance board made up of both appointed and elected members, were presented to the Task Force for discussion.

At the meeting on March 25, 2011, the Task Force continued its discussion of the governance models. Notably, a second all-appointed model was presented and a status quo model was presented and withdrawn.

At the meeting on April 13, 2011, a “Comprehensive Governance Reform Proposal” – a hybrid model that included both appointed and elected members – was presented by Task Force members Jon Streeter, Angela Davis, Gwen Moore, Wells Lyman, Lowell Carruth, Loren Kieve and Luis Rodriguez. An “All-Appointed Proposal” was presented by Task Force members William Hebert, Jeannine English, Dennis Mangers and Michael Tenenbaum. The Task Force voted unanimously to submit both proposals to the Office of General Counsel for inclusion in the Report and Recommendations of the State Bar Governance in the Public Interest Task Force Final Report. It was noted that the Task Force governance recommendations may include some Supreme Court appointments to the Board. The Court, along with the Legislature and Governor’s Office, will carefully review the proposals that are submitted.

At the meeting on May 5, 2011, the Task Force voted to submit its final report to the Supreme Court, the Governor, and the Assembly and Senate Committees on Judiciary, subject to non-substantive changes being made by the majority members to section 2. b. of the Majority Report prior to submission.

2. Supplemental Background Materials

Before formulating its recommendation, the Task Force reviewed and considered supplemental background materials regarding other states' governance models, other public agencies' governance models, its consultant's report on the transition process and succession from the current board, the ABA McKay Report, the Future of the California Bar-1995 Final Report of the Commission on the Future of the Legal Profession and the State Bar of California, the 2001 ABA Report, and the 2003 Supreme Court Committee on Attorney Discipline.

3. Outreach

a. Task Force Chair Public Appearances

The Task Force Chair made continuous effort to keep bar associations, bar leaders and the public informed regarding the Task Force's mission. The following is a list of those meetings/appearances:

- Bay Area Bar Association Leaders (November 17, 2010)
- Orange County Bar Association Executive Committee and Bar Leaders (December 6, 2010)
- San Diego Bar Association Executive Committee and Bar Leaders (December 7, 2010)
- Riverside/San Bernardino Joint Bar Association Meeting (December 9, 2010)
- Los Angeles County Bar Association Executive Committee Meeting and Board of Trustees Meeting (December 15, 2011)
- Appearance on radio program, "Know Your Legal Rights," with Chuck Finney, KALW, 91.7 FM (February 2, 2011)
- Meeting with Council on Sections, Los Angeles (March 2, 2011)
- Beverly Hills Bar Association Board of Governors (March 8, 2011)
- Orange County Bar Association Executive Committee (March 23, 2011)
- Chancery Club, Los Angeles (April 7, 2011)

b. Local Bar Associations, Organizations and Interest Groups – E-mail Communications

Extensive outreach efforts were made to keep organizations and interest groups informed about the Task Force charge and to solicit information from these groups. The list of groups and

organizations the Task Force contacted and distributed the Survey Request for Information to included:

- Alameda County Bar Association Net
- ALM Media Properties
- Associated Press, G. Burke
- Bar Association Northern San Diego County
- Beverly Hills Bar Association
- Biz Journals
- Bonnie Benitz, CASD
- Cal PIRG (Sacramento)
- California Common Cause
- California Consumer Affairs Association
- California District Attorney Association
- California State Senate Policy Consultant-Lindsey Scott-Florez
- California Trial Lawyers Associations
- Center for Public Interest Law, University of San Diego School of Law
- Chinese News
- Consumer Action (SFO)
- Consumer Federation of California
- Consumer Watchdog (Santa Monica)
- Consumers Union (West Coast Office)
- Contra Costa County Bar Association
- Daily Journal
- Department of Consumer Affairs Consumer Services Division
- Disability Rights California
- Drew Liebert, California State Assembly Staff
- Fredericka McGee, General Counsel (to Assembly Speaker John A. Perez)
- Fresno County Bar Association
- HALT, Washington, DC
- Human Rights/Fair Housing Commission
- J'Amy Pacheco, San Bernardino Bulletin
- Kern County Bar Association
- Kim Saskia, Chief Counsel, Senate Judiciary Committee
- LA Business Journal
- LA Times
- Lawyers Club of San Diego
- League of Women Voters
- Legal Aid Association of California
- Los Angeles County Bar Association
- Los Angeles County Public Defender's
- Marin County Bar Association
- Metropolitan News

- Neighborhood Legal Services of Los Angeles County
- Orange County Bar Association
- Orange County Register
- Public Citizen (Washington, DC)
- Public Interest Law Project
- Public Law Center
- Rich De Atley, PE News
- Riverside County Bar Association
- Sacramento County Bar Association
- San Diego County Bar Association
- San Diego Daily Transcript
- San Fernando Valley Bar Association
- San Fernando Valley Business Journal
- San Francisco County Bar Association
- San Francisco Trial Lawyers Association
- San Jose County Bar Association
- San Luis Obispo Bar Association
- San Mateo County Bar Association
- Santa Barbara County Bar Association
- Santa Clara County Bar Association
- SF Chronicle
- Solano County Bar Association
- Sonoma County Bar Association
- Source Media
- The Recorder
- The W Group, Strategic Public Affairs
- Tulare County Bar Association
- UCLA Law School-Professor Richard Abel
- University of San Diego, School of Law
- Utility Consumers Action Network (San Diego)
- Ventura County Bar Association

c. Survey of Members

From December 20, 2010, through February 1, 2011, the Task Force distributed a Request for Information Survey to 20,000 members, seeking input on the State Bar's current governance model and on ways it could be improved with a view towards enhancing public protection. The survey posed questions regarding the appropriate definition of public protection and as to the size, composition, ratio of public to attorney members, selection process of both Board members and the President, qualifications and terms of office.

The Task Force received 176 responses to its survey. A majority of those comments were from members of the public. Twenty-two written responses by individuals and organizations/groups separate from the survey were also received and considered by the Task Force.

d. Written Responses to Survey

The Task Force's request for written responses to its survey consisted of eight questions. Not every respondent answered every question.

Question No. 1: Define Public Protection

Nearly every response to this question elicited concerns that reflected the need for careful scrutiny during the attorney admissions process, to ensure ethical conduct of attorneys through education and through imposition of prompt discipline of unethical and incompetent practitioners, and, finally, to ensure that all Californians have meaningful access to justice.

Question No. 2: Who Should Serve on the Board that Governs the State Bar?

The Task Force received 163 responses to this question, as follows:

- Attorneys and Public Members – 66 responses
- Attorneys Only – 46 responses
- Current Composition – 26 responses
- Attorneys and Judges – 19 responses
- Attorneys, Judges and Public Members – 21 responses
- Public Members Only – 5 responses
- Litigants as Members Only – 1 response
- Individuals (non-specified) – 1 response

Overall, responses to this question cited the need for greater attorney diversity on the Board, preferring selection by practice area, rather than geographic location. Respondents preferred more public members with knowledge of the practice of law and not political insiders.

Question No. 3: How Should Board Members be Selected?

The Task Force received 159 narrative responses to this question. Of those that could be characterized as similar, the responses were broken down as follows:

- Elected – 38 responses
- Current geographic election process – 28
- Appointed – 23
- Combination Elected and Appointed – 29
- Other – 9

Question No. 4: What Qualifications Should be Required?

The Task Force received 155 narrative responses to this question, reflecting a wide variety of opinion on desired qualifications as follows:

Responses cited active membership in good standing as a desired qualification. A variety of responses suggested that some length of experience varying from five to 15 years is additionally important. Some respondents thought diversity in practice area or geography should be a consideration.

Other desired attributes included degrees of higher learning, business experience, history of public service, and knowledge of the legal system.

Question No. 5: What Size Should the Board be?

The Task Force received 157 narrative responses in answer to this question, categorized as follows:

- Ten or Fewer – 41 responses
- Between 11-20 – 32 responses
- Between 15-25 – 1 response
- Twenty or more – 10 responses
- Twenty-Three (Current) – 45 responses
- No Opinion – 5 responses

Question No. 6: How Long Should the Terms of the Members (and the President) be?

As with the previous question, 157 narrative responses were received, as follows:

Members' Terms:

- One-Two Years – 43 responses
- Three Years (Current) – 91 responses
- Four or More Years – 22 responses
- Five or More Years – 4 responses
- No Particular Time Frame – 2 responses

President's Term:

- One Year – 20 responses
- Two Years – 21 responses
- Three Years – 2 responses
- Indefinite – 1 response

Question No. 7: How Should the President and Officers be Selected?

The Task Force received 158 narrative responses, as follows:

- By Board Members – 82 responses
- By the Members of the State Bar – 35 responses
- Current Method – 26 responses
- By Appointment – 7 responses
- Other – 4 responses

Question No 8: What Other Changes Should be Made?

The Task Force received 151 narrative responses to this question. Answers ranged from limiting focus to strictly regulatory functions of admission and discipline to increasing governance transparency, to increasing the number of public members, to increasing the number of attorney representatives, to eliminating self-regulation completely, to imposing stricter and more transparent discipline on errant attorneys, to lessening political influence and involvement in State Bar governance, to reducing the influence of local bar associations, to eliminating an integrated bar and increasing access to justice.

e. Public Hearings

At the two public hearings, several notable academics gave testimony, including Professor Robert C. Fellmeth, Executive Director of the Center for Public Interest Law at the University of San Diego School of Law, Professor Richard Abel, Connell Professor of Law Emeritus from UCLA Law School, and Toby J. Rothschild, General Counsel of the Legal Aid Foundation of Los Angeles. Rodd Santomauro, Executive Director of HALT (Help Abolish Legal Tyranny) a Washington D.C. non-profit organization also appeared. Seven bar associations sent representatives to speak. One attorney, one former member, seven members of the public and the President of the Northern California Chapter of the State Bar union staff gave additional testimony.

Professor Fellmeth favored a smaller, more transparent board that would be subject to Bagley-Keene, with certain exceptions. Professor Fellmeth urged the Task Force to include public protection more explicitly in its mandate. He suggested eliminating election of governors, and instead advocated for appointment of attorney members by the Supreme Court. He additionally voiced support for longer terms of four years, with a two-term limit and for a three-year presidential term, again with a two-term limit.

Professor Abel, who authored a book that included a history of the State Bar, advocated an abdication of the geographic representation process. He pointed out that the practice of law is specialized to a much higher degree than in the past, so that geographic representation no longer makes sense and is not representative of the broad spectrum of interests currently in play. He instead advocated that attorney members be chosen by practice specialty or other functional categories. He also pointed out the need to engage consumer members, however difficult.

Toby J. Rothschild reminded the Task Force that public protection at its core requires that priority be given not only to admissions and discipline functions, but also meaningful access to justice to all Californians.

Mr. Santomauro advocated for a higher level of transparency in governance, as well as in imposition of discipline, for mandatory malpractice insurance, and for a greater ratio of public members on the Board.

Generally, the Bar Associations questioned the basis and need for change and advocated for preservation of the status quo. In particular, the Bar Associations favored geographic representation through an election process by the attorney members of the State Bar. The Bar Associations universally favored a majority of attorney board members. However, to the extent these organizations recognized that an appointment process might be inevitable, the vast majority of Bar Associations preferred that the Supreme Court control any appointment process.

f. Web Site Access

All notice, agendas and information regarding the Task Force were available on the State Bar's Web site at www.calbar.ca.gov.

III. PROPOSALS

A. Majority Report¹⁷

Although Business and Professions Code, section 6001.2, is silent as to whether the Task Force's recommendations should include proposals for the organization of the Board or the manner in which its members are selected, the statute directs the Task Force “to take...stock...[of] what if any structural and other potential improvements might make the Bar’s public protection efforts as vigorous as possible.” Below is the report of the majority of the Task Force members in response to this charge.

1. Our Proposal for Governance Reform

Before outlining the elements of our proposal, we make some preliminary observations about its key features.

We support the State Bar’s traditional mode of electing attorneys to the Board, but with some refinements. California’s statutory system of electing attorneys to the Board has served the public and the public interest well since 1927. Elections give rank-and-file members of the State Bar the opportunity for “buy-in.” The right to have a voice in governance gives members a sense that they are invested in the mission of the Bar. Without a broad sense of investment in the enterprise, it may be difficult for Bar leaders to inculcate in the state’s 225,000 lawyers the values of competence, ethics, duty, integrity, honesty and civility that undergird our rules of professional responsibility.

We also support retaining the 23-member size of the Board, without change to the number of attorney members. We have both practical and structural reasons for this. Compared

¹⁷ The Majority Report is approved by: Jon Streeter, Angela Davis, Gwen Moore, Wells Lyman, Lowell Carruth, Loren Kieve and Luis Rodriguez.

to other unified bar states with large memberships, we have the smallest Board.¹⁸ The minority of this Task Force proposes to reduce its size even further. We oppose this idea because we need a sufficiently sizeable number of attorneys to populate our committees adequately. An enormous volume and variety of business comes before the Board, virtually all of which has an overriding legal dimension. If there is a reduction in the number of attorneys on the Board, we will be less effective in doing this business and ultimately in carrying out our mission.

There has been much discussion on the Task Force of establishing an appointive system for selection of attorneys to the Board. We see no need to rush into the creation of a wholly appointive system without concrete evidence of its superiority to elections. None has been presented to date. We are nevertheless supportive of having three at-large seats filled by Supreme Court appointment. These appointive seats would be a *supplement* to our current system of electing attorney members to the Board. We believe that including three Supreme Court appointments to the Board would allow the value of an appointive model to be evaluated empirically over a period of years, and at the same time would improve the elections system by adding needed flexibility.¹⁹

To minimize disruption, whatever governance changes are adopted should be implemented gradually. We attach great importance to taking an incremental approach because

¹⁸ Measured by number of members, California has by far the largest bar in the United States. Among the states having unified bars, the largest five are California, Texas, Florida, Georgia, and Virginia. By comparison to our board size of 23, the sizes of the governing policy boards in these other large unified bars are Georgia (155), Virginia (80), Florida (52), and Texas (46). In Nevada, the only unified bar state with a board size of 15 -- which is what the minority of this Task Force recommends for California -- the population of active admitted attorneys is, 10,360, approximately 5% of the number of active admitted attorneys in California.

¹⁹ The current group of nine electoral districts is rigid. It does not easily accommodate modern demographic shifts in the distribution of the attorney population around the state. Giving the Supreme Court three at-large appointments would allow additions to the Board's membership based on geography, skill-set or any other qualifications that the Court believes should be included in the overall make-up of the Board's membership. These considerations could and presumably would change over time.

any governance changes adopted by the Legislature could raise separation of powers issues, as explained below in Section 2.a.

With these preliminary observations in mind, our specific proposal for governance is as follows:

- 23 Board Members (22 plus President)
 - 16 lawyer members: 12 elected, one CYLA, 3 appointed
 - Six public members (same appointing authorities)
- Adopt qualification criteria applicable to both public and lawyer members
 - Add new more specific conflict of interest rule to supplement existing general rule (e.g. specify recusal circumstances for pending discipline matters)
 - Add new criteria requiring high level of familiarity and interest in Bar's work
- Establish new appointing authority under auspices of the Supreme Court (the Merit Screening Committee) for three at-large attorney appointees
- Create five new electoral districts for the 12 elected lawyer members -- reconfigure current districts based roughly on existing District Court of Appeal "DCA") boundaries, and allocate as follows: District A (DCA 2), four seats; District B (DCAs 1 and 6), three seats; District C (DCA 4), three seats; District D (DCA 3) one seat; District E (DCA 5), one seat²⁰

²⁰ The current CYLA seat would be retained. Thus, there would be a total of 16 attorney seats, consisting of 12 elected attorneys, three attorneys appointed by the Supreme Court, and a CYLA representative.

- Terms
Elected -- Staggered three-year terms, may not run for successive terms, but may be appointed to a successive term and may run again after at least a one-term hiatus

Appointed -- Staggered three-year terms, eligible for reappointment
- Re-name the Board of Governors to the “Board of Trustees,” and re-name board members to “Trustees”
- Transition: three-year phase-in to new electoral districts and new appointments, without requiring sitting members to resign or serve shortened terms

As a complement to the changes outlined above, the Board should consider making a variety of internal governance changes by revising its “Board Book” rules. The Board Book contains the Board’s internal policies and procedures. Building on an ongoing internal governance improvement process that began last year, a number of Board Book changes should be made to bring about improved strategic continuity and improved communication and responsiveness -- to the public, to the Legislature, to the Governor, and to the Supreme Court.²¹

One revision of these rules that we recommend for immediate adoption in the 2011 – 2012 board year is to require a mandatory minimum number of public members assigned to the RAD and the MOC, each of which has a significant role in policy-making on regulatory matters. Specifically, we propose that (1) the RAD and MOC committees must always include at least 40% public members and (2) that these committees each include at least one of the Supreme

²¹ A governance subcommittee of the Board’s Planning Committee, appointed in the 2009 – 2010 board year, made a valuable start at adopting some of the changes we have in mind. Among the internal issues that we have yet to address are a series of changes and refinements to the Board’s committee structure, including the following: (1) Changes designed to improve external messaging about the work of the Bar (hold every January meeting of the board in Sacramento and have “State Bar” day in conjunction with that meeting; create new Public Information and Outreach Committee); (2) Changes designed to improve year-to-year continuity (create new nine-member Executive Committee to replace the Board Operations Committee, with annual merit-based appointments; task the Planning Committee with continuously updating Strategic Plan and monitoring progress against same); and (3) a thorough re-examination of the role and mode of selection of the President.

Court appointees.²² The establishment of public member thresholds for these committees finds precedent in the composition of the Committee of Bar Examiners.

The input of our public members has been extremely valuable, particularly in discussions of matters that touch upon overarching policy issues affecting the regulation or oversight of attorneys. In recent years, State Bar presidents have often exercised their appointment prerogative to appoint at least 30 – 40% public members to the RAD committee. The practice of staffing the RAD committee in a way that ensures ample public member participation reflects the high value that we place upon non-attorneys in our policy deliberations. By adopting a mandatory minimum threshold for public participation on both RAD and MOC, we propose, in effect, to demonstrate expressly in our rules the value we place upon public members' input. That, in itself, should send an important message to the public about how the State Bar does business.²³

²² We suggest that this change be done by revising the Board Book rules so that the organization and staffing of committees can be flexible enough to respond to changing needs from year-to-year. For example, in the 2009-2010 board year, President Miller split the RAD Committee into two separate, fully-staffed committees -- the Discipline Oversight Committee ("DOC"), and the Regulations and Admissions Committee ("RAC") -- in order to handle a single project, the final consideration of a new set of proposed rules of ethics coming from the Rules Revision Commission ("RRC"). The RAC was tasked with making recommendations to the full Board on the RRC's proposed rules -- a massive piece of work that lasted the entire Board year -- while the DOC dealt with other policy issues that have traditionally been within the jurisdiction of RAD. In the 2010 – 2011 Board year, after completion of the RRC project, President Hebert returned to the traditional committee structure, with a single RAD committee, eliminating the RAC. As this example shows, there can be one-time events, one-time projects or other transient needs that require changes to the Board's internal committee structure from time to time. To meet these changing needs, the functional areas addressed by different committees can, and must, remain fluid. Because the committees that are today known as RAD and MOC might be reorganized in the future to deal with needs that we cannot now predict or anticipate, it is best to leave to the Board itself the administration, in practice, of any public member numerical threshold on those bodies.

²³ Improvements can also be made in the transparency of how we conduct business. When the Task Force began to meet in the fall of 2010, its agenda included consideration of the Bagley-Keene Act's meeting provisions in place of the open meeting regime that the State Bar currently follows under the statutory structure that exempts the judicial branch from Bagley-Keene. At the direction of the Task Force Chair, that issue is now being addressed by Board's Stakeholders Committee.

2. Foundational Principles Underlying Our Proposal

a. The State Bar is a Judicial Branch Agency

As explained by the California Supreme Court in the landmark case of *In re Attorney Discipline System*, *supra*, 19 Cal. 4th 582, the State Bar is organized in the judicial article of the California Constitution.

Lawyers who are admitted to practice through the Bar’s admissions process are sworn in as officers of the court. They are required to adhere to a disciplinary and ethical code that is approved and sanctioned by the Supreme Court. Disciplinary actions of the State Bar Court are ultimately reviewed by the Supreme Court, which has the inherent power to discipline lawyers. The constitutional status of the State Bar as an organ of the Supreme Court sets the Bar apart from other administrative regulatory bodies in the state. It is also counsels against reducing the number of attorney members on the Board or otherwise imposing structural changes that could reduce the effectiveness of the Board in carrying out the State Bar’s mission.

As a judicial branch agency, the State Bar has a number of “very specialized characteristics...[which serve] to distinguish it from the role of the typical government official or agency.” *Keller v. State Bar of California*, *supra*, 496 U.S. at p. 12. The State Bar has been organized since its founding in 1927 as a unified bar. In this organizational structure, bar membership and payment of dues is mandatory as a condition of practicing law, thus (a) bringing all attorneys within the Supreme Court’s licensing and disciplinary purview and (b) providing a source of self-funding for the Bar’s operations (the Bar does not expend taxpayer dollars). At the same time, however, the State Bar has some characteristics of a voluntary association. While it has mandated *regulatory functions* in specified areas,²⁴ it also carries out a variety of *non-*

²⁴ Attorney Admissions (Bus. & Prof. Code, §§ 6046 – 6047, 6060 – 6067; Rules of the State Bar, Title 4); Attorney Discipline (Bus. & Prof. Code, §§ 6075 – 6095, Rules of the State Bar, Title 5); Member Records (Bus. & Prof.

regulatory functions. Some of these non-regulatory functions are mandated²⁵ and some are merely permitted,²⁶ but all of them are closely entwined with and complementary to the Bar's regulatory functions,

The Supreme Court has always taken care to recognize the Legislature's "authority to adopt measures regarding the practice of law" in this state, including the Legislature's traditional practice of setting the amount of dues that attorneys must pay. *In re Attorney Discipline, supra*, 19 Cal. 4th at p. 602. But at the same time, the Court has been emphatic that it, and it alone, retains original and final authority over all matters that affect the State Bar's core functions of admissions and discipline. As the Court explained in *In re Discipline*:

[A]lthough the State Bar originally was purely a legislative creation, its unique nature has been recognized by the Legislature throughout the existence of the bar. The State Bar's special character further was emphasized when it became a constitutional body, placed within the judicial article of the California Constitution, and thus expressly acknowledged as an integral part of the judicial function.... [¶]... "We have described the bar as "a public corporation created . . . as an administrative arm of this court for the purpose of assisting in matters of admission and discipline of attorneys." [Citation.] In those two areas, the bar's role has consistently been articulated as that of an administrative assistant to or adjunct of this court, which nonetheless retains its inherent judicial authority to disbar or suspend attorneys. [Citations.]... Thus the judicial power in disciplinary matters remains with this court, and was not delegated to the State Bar.' [Citation].

Code, §§ 6002.1, 6064; Cal. Rules of Court, rule 9.6); Rules of Professional Conduct (Bus. & Prof. Code, §§ 6076, 6077); Mandatory Continuing Legal Education (Bus. & Prof. Code, § 6070, Cal. Rules of Court, rule 9.31(b)); Client Security Fund (Bus. & Prof. Code, § 6140.5(a)); Lawyer Referral Services (Bus. & Prof. Code, § 6155); Law Corporations (Bus. & Prof. Code, §§ 6160-6172); Fee Arbitration (Bus. & Prof. Code, § 6200); Lawyer Assistance Program (Bus. & Prof. Code, § 6231(a)); Legal Specialization (Cal. Rules of Court, rule 9.35(b)); Counsel Pro Hac Vice (Cal. Rules of Court, rule 9.40); Certified Law Students (Cal. Rules of Court, rule 9.42); Out-of-State Attorney Arbitration Counsel Program (Code of Civ. Proc., § 1282.4, Cal. Rules of Court, rule 9.43(b)); Registered Foreign Legal Consultant (Cal. Rules of Court, rule 9.44)); and Registered In-House Counsel (Cal. Rules of Court, rule 9.46(h)).

²⁵ JNE (Govt. Code, § 12011.5); IOLTA (Bus. & Prof. Code, § 6216); and Justice Gap Fund (Bus. & Prof. Code, § 6033).

²⁶ Functions in Aid of Jurisprudence and Justice (Bus. & Prof. Code, § 6031) ("All matters pertaining to the advancement of the science of jurisprudence or to the improvement of the administration of justice"). In practice, this has included such things as Access to Justice, Legislation, Sections, Elimination of Bias, Bar Relations, Bar Communications, California Young Lawyers Association Legal Services, Insurance and Other Benefits Programs, and the State Bar Foundation.

"[The State Bar] is not an administrative board in the ordinary sense of the phrase. It is sui generis. *In disciplinary matters (and in many of its other functions) it proceeds as an arm of this court....*

(*Id.* at 599-600. Emphasis added.) (See also *Obrien v. Jones, supra*, 23 Cal. 4th at pp. 48-57.)

For decades, some observers have advocated that the unified bar structure should be abandoned in California and that the Bar should be stripped to its core functions of admission and discipline. The Task Force does not operate in a vacuum on this issue. It has the benefit of the Final Report of the Commission on the Future of the Legal Profession and the State Bar of California (April 1995) (“CFLP Report”), which represented the culmination of nearly two years of study and analysis by a commission of 30 diverse people brought together by four different appointing authorities who were charged in 1995 with considering the future of the legal profession in California over the next 25 years. After gathering extensive input from eight focus groups, holding four public hearings, conducting a survey in conjunction with the Rand Corporation, taking submissions from dozens of experts, and studying “a mountain of available literature,” as well as doing a review of the governing structures of the bar associations of the other 49 states and six other professions in California, the CFLP Report recommended retention of the unified bar in California.

Opposition to the unified bar in California has been muted in recent years, but it persists among some of the most stalwart critics. The reasons for the opposition have varied, but a focal point of criticism has often been the Bar’s alleged involvement in taking positions on issues that are viewed by some as political or ideological. The decisions in *Keller v. State Bar, supra*, 496 U.S. 1, and *Brosterhous v. State Bar, supra*, and the spin-off of the State Bar Conference of Delegates in 2002, have largely mooted that issue. Another focal point of criticism has been the

discipline system. When Governor Wilson vetoed the State Bar's fee bill in 1998, which threatened the Bar's ability to investigate and pursue disciplinary complaints, the issue of whether the Court retained ultimate control over the Bar came into sharp focus in *In re Attorney Discipline System*, *supra*, 19 Cal. 4th 582. In that case, leading opponents of the unified bar suggested that the Court should transfer all discipline-related functions out of the Bar and house them in the Administrative Office of the Courts. (*Id.* at 616, note 20.) The idea was to move all responsibility for discipline wholly outside the Bar, which would have left the Legislature free to restructure what remained of the Bar without regard to separation of powers issues. The Court firmly rejected this suggestion and made very clear that its decision -- which authorized the Bar to charge a fee necessary to run the discipline system, despite Governor Wilson's veto -- was not to be read as "favor[ing] the transfer of the discipline system" to another agency. (*Id.*)

b. The Board of Governors has an Important Policy-Making Role as an Adjunct to the Supreme Court, but it Does Not Have a Direct Role in Either the Admission or Discipline of Individual Attorneys and the Supreme Court Retains Plenary Authority Over Everything It Does

The Board has a crucially important role in policy-making, oversees the administration of rules that have been established and approved by the Supreme Court -- such as the rules of professional responsibility, and the rules governing admission to practice -- and as a practical matter has the final decision-making role on most matters that come before it. But in truth, its powers and its function are more limited than are popularly understood. The State Bar has no authority to grant licenses or impose discipline, and it has "[n]o delegated power to adopt rules of ethics or other enactments regulating the profession or practice of law." Although the Bar does have a key advisory role to the Supreme Court, it does not have the "law-making" authority or function of a regulatory agency.

The Board, as the governing board of the State Bar, is a policy-making and administrative body whose role is to make recommendations to the Supreme Court based on the specialized knowledge of its members and their depth of experience with the legal profession, and then to carry out policies that the Supreme Court approves and adopts. The Supreme Court retains plenary authority to revise, substitute its judgment for, add to, or reject anything that the Board does. As the United States Supreme Court aptly put it in the *Keller* case, the State Bar “was created, not to participate in government of the State, but to provide specialized professional advice to those with ultimate responsibility of governing the legal profession.”

Close examination of the two areas that are commonly understood to be core “regulatory” functions of the Bar -- admissions and discipline -- provides a helpful illustration of this point. In admissions, the Board does not determine which individual applicants are eligible to sit for the bar exam or who is eligible for admission. That responsibility is, by statute, the sole province of the Committee of Bar Examiners (the “CBE”), which has power to administer the bar examination and to certify who has “fulfilled the requirements for admission to practice law.”²⁷ Upon the CBE’s certification, the Supreme Court determines who is to be admitted.²⁸ The Board has no role in that process. Although the Board is not involved in individual admissions decisions, it does have a wide range of policy-making responsibility for the CBE’s operations.²⁹

Similarly, in the area of discipline, the Board does not adjudicate individual discipline cases or impose discipline. This is contrary to some perceptions, but those perceptions tend to be

²⁷ See Bus. & Prof. Code, § 6046. The CBE is a 19-member committee. *Id.* Its membership is composed of nine public members (with three each appointed by the Senate Rules, the Speaker of the Assembly, and the Governor) and ten members who are either lawyers or judges appointed by the Board. *Id.*

²⁸ See Bus. & Prof. Code, § 6064.

²⁹ See, e.g., Bus. & Prof. Code, § 6047 (“Subject to the approval of the board, the examining committee may adopt such reasonable rules and regulations as may be necessary or advisable for the purpose of making effective the qualifications [for admission]”); see also, e.g., Bus. & Prof. Code, § 6063 (fees charged to applicants for admission set by the Board).

dated. For many years, the Board did have a direct role in the area of discipline. Until 1965, the Board acted as the final adjudicator of attorney discipline cases in California, reviewing findings of fact, conclusions of law, and disciplinary recommendations of local administrative committees, generally through local bar associations. The Board appointed the members of these committees, made the final recommendations for suspension or disbarment, and directly exercised power to impose lesser sanctions in cases involving minor misconduct. Public member representation in the work of the State Bar began in the era of this discipline system. By statute, the Board was required to appoint public members to local disciplinary committees.

In 1979, after a period of transition during which a variety of adjudicatory bodies were created within the State Bar to hold hearings and carry out decision-making functions on regulatory matters collateral to discipline, virtually all adjudicative functions were consolidated within a new State Bar Court having general jurisdiction over attorney discipline and other regulatory matters. The State Bar Court was organized then, roughly as it is today, into a Hearing Panels and a Review Department. Adjudication in this system continued to be carried out by volunteers, mostly attorneys appointed by the Board and serving part time. State Bar Court recommendations were reviewable, not by the Board, but by the Supreme Court. The requirement of public member representation was carried over from the local committee system. By statute, the Board was required to appoint public members to the State Bar Court, both at the Hearing Panel and Review Department levels.

A critical change took place in 1989, when the Board's role in appointing part-time volunteer judges to the State Bar Court ended. At that point, the Legislature created a system in which full-time professional State Bar Court judges appointed by the Supreme Court preside

over discipline cases.³⁰ Much credit for the establishment of a system of professional discipline adjudication goes to Professor Robert C. Fellmeth, who was appointed by the Supreme Court in 1987 to be the State Bar's Discipline Monitor. Over the course of several years' work, Professor Fellmeth issued a series of lengthy reports. Professor Fellmeth's core critique -- that any system in which attorneys control their own discipline system will always be suspect in the public mind -- was well-supported in these reports by detailed factual findings.³¹

The result was the creation of this country's first -- and to this day only -- specialized discipline court system. In his final report as Discipline Monitor, Professor Fellmeth lauded the creation of a full-time, professional State Bar Court as a signal achievement. He pointed to evidence drawn from surveys of public perception and concluded that "the public's confidence in [the State Bar Court], which does not consist of possible colleagues of the accused, has increased markedly by any number of measures." Citing dramatically improved processing of discipline cases, increased uniformity of decision-making, and greater confidence reposed in the discipline system by the Supreme Court -- as shown by the Court's willingness to give the State Bar Court's decisions a high degree of finality -- Professor Fellmeth said that he knew of "no precedent anywhere in the nation which can approach the dramatic turnaround achieved from 1987 to 1991." We concur with that assessment. By comparison to the pre-1989 era, his point remains valid today.

³⁰ Today, State Bar Court judges are appointed on a shared basis by the Supreme Court, the Legislature and the Governor. Another notable change has been that public member representation in State Bar Court decision-making process has been eliminated. In the early years of this new system of professional State Bar Court judges, there remained a requirement of public member representation. The Legislature eliminated the requirement that there be a public member of the Review Department in 2000, see *Obrien v. Jones*, 23 Cal. 4th 40, presumably because the job of a review judge is so inherently legal in nature that the quality and reliability of decision-making requires legal training.

³¹ The submissions that Professor Fellmeth has submitted in connection with the work of this Task Force, by contrast, have been markedly rhetorical. See e.g., Letter from Robert C. Fellmeth to Hon. Mike Fueur and Hon. Ellen Corbett (July 2, 2010), at 3 (referring to "tribal rules" by which members of a profession operate); *Id.* at 4 (describing that State Bar as a "medieval guild").

Although the Board no longer has a direct role in the adjudication and imposition of discipline in individual cases, it does nominate, oversee, and monitor the Chief Trial Counsel. The Board's responsibilities in this regard are dynamic and its policy-making role with respect to discipline prosecution necessarily evolves over time in response to events. While it is always incumbent on the Board to discharge this aspect of its mission in a way that meets the most exacting standards of public protection, to place things in perspective we would point out that, with creation of the modern State Bar Court, dramatic structural changes to the State Bar have already been adopted in response concerns about a public perception that lawyers cannot be trusted to "regulate themselves." The demonstrated willingness of the Board to listen carefully to critics, to engage in self-examination and adopt important changes after thoughtful deliberation, is, in and of itself, a reason to adopt the incremental approach to governance change that the majority recommends.³² We view the proceedings of this Task Force yet another stage in an ongoing process of ensuring that the Bar, as an institution, is focused on the interests of its most important stakeholders -- the citizens of the State of California.

3. The Minority's 100% Appointment Model

A minority of the members of this Task Force recommend elimination of the longstanding practice of electing attorneys to the Board and substituting in its place a process by which the Supreme Court would appoint all of the attorney members. This proposal would also reduce the number of attorney members from 16 to nine, effectively lowering the ratio of

³² One example is the Board's September 2010 vote to recommend a set of changes to the Rules of Procedure of the State Bar that were designed to streamline the adjudication of cases before the State Bar Court, including the adoption of new rules of evidence drawn from the Administrative Procedure Act. These recommended rule changes were adopted after an extensive process of vetting, close coordination with the State Bar Court, and consultation with affected stakeholders. The fact that the Board took great care to examine the proposed revisions at length has nothing to do with whether, as the minority puts it, "change is hard." It has everything to do with fair, thorough and careful deliberation. Without going into the details concerning each of the votes on the policy matters mentioned in the Bill Analysis to AB 2764 -- such as, for example, the matter of professional malpractice insurance disclosure -- suffice it to say the process of constant re-examination in order to bring about improvements in policy is ongoing in many areas.

attorneys to non-attorneys on the Board. Because of the core emphasis in this proposed model of governance on appointments rather than elections for attorney members, we refer to it as the "100% appointment model."

Those who support the 100% appointment model have emphasized that elimination of attorney elections would address a perception that attorney members of the Board have voted in allegiance with their local bar communities, rather than in the service of the public interest. In this view, increasing the voting clout of public members on the Board -- which is what lowering the ratio of public members to attorney will do -- would mitigate concerns that attorney members of the Board are self-interested and cannot be trusted to safeguard the interests of the public.

We respectfully submit that these arguments are misguided.

First, the State Bar has used elections to select attorney members of the Board since 1927, and at no point in all these years has anyone seriously suggested that the electoral system ought to be abandoned -- until now. Strong proof is required if members of the State Bar are to be stripped of any right to have a voice in their own governance. No such proof has been presented in the record before the Task Force, and the minority does not and cannot cite any. We received no meaningful evidence, as opposed to anecdote and repeated assertions of a perception, that the method of selecting Board members inadequately serves the public interest. When we actually examined Board's voting patterns on all the items listed in the Bill Analysis to AB 2764, we found attorney members and public members of the Board on both sides in virtually every instance, regardless of where local bars stood. Most of these matters involved policy disagreements in which *both* sides took the view that they were voting in the interest of public protection. All of them involved close policy judgments on which reasonable minds could disagree.

Second, the 100% appointment model presents substantial risks to judicial independence. It is unrealistic to expect that the Supreme Court can make nine appointments – nearly two thirds of the Board’s membership, with the reduction in board size proposed by the minority – without exposure to pressures emanating from the political branches. Particularly nowadays with the courts frequently coming under budgetary and other criticism from the political branches, the 100% appointment model is ripe for politicization. The Supreme Court runs the risk of being drawn into policy-level controversies at the State Bar that, in its current arms-length oversight role, do not touch it, or that touch it only remotely. While we do not categorically oppose using appointments as an element of the Board selection process for attorneys, we do believe that replacing elections wholesale with Supreme Court appointments is both unwarranted and unwise.

Third, the 100% appointment model would lack the transparency and openness of an electoral process. An appointment system, which by its very nature would not be open, may favor candidates who have advantageous connections to the selection committee, to the detriment of qualified "outsiders" who can bring a fresh and open perspective to the Board. By the same token, the 100% appointment model could result in substantial sacrifices of diversity, not only in terms of conventional markers of diversity, but also in more nuanced areas of thought and experience. The current composition of the Board is remarkable for its rich diversity, defined broadly, with many practice area specialties, geographic areas, and experience levels included in the membership mix. This diversity came about as a direct result of the electoral process. We have no doubt that the Court could hand-pick a strong and impressive group, but in our view it would be difficult to replicate the multifaceted diversity that has come out about through elections, particularly in the areas of background, practice area and point of view.³³

³³ We note that the minority advocates adding to the mix a seat on the Board for attorneys who are licensed by the State Bar but who practice outside of California. We find that point to be a curious one, since the minority also

Fourth, we do not see any nexus between the 100% appointment model and the issues of public protection that that proposal is ostensibly designed to address. No matter how public protection is defined, none of the proponents of the 100% appointment model have been able to explain how or why nine attorneys selected for Board service by the Supreme Court might vote or handle policy issues differently than nine attorneys selected for Board service by election. This highlights a basic flaw in the rationale for the 100% appointment model. That model rests on the idea that elected lawyers come with some kind of bias or perceived bias that appointed attorney Board members would not have. But the only bias anyone has pointed out -- an alleged bias toward local bar associations -- would be no less operative for appointed attorneys, most if not all of whom would likely come with distinguished records of local community service, including bar association service.

Fifth, and finally, the minority's insistence that the State Bar should be treated like any other state agency misapprehends the Bar's constitutional status. The Bar is neither an executive branch agency nor "like any other state agency." Under the state constitution, it is an integral part of the judicial branch. That has profound implications. It means, among other things, that facile comparisons to other agencies are misplaced. The Bar is *sui generis* as an agency, and is not remotely comparable to the Public Utilities Commission, the Department of Insurance, or any of the other regulatory entities that the minority casually mentions. Elsewhere around the country, no other state with a unified bar structure has done what the minority is proposing here. The only examples of bar governance bodies on which public members serve in equivalent or

claims to be concerned about members of the Board viewing themselves as having some specific "constituency." Putting to one side the internal conflict in the minority's logic, we agree with them that the perspective of an out-of-state attorney would be a valuable addition to the membership on the Board. We would simply point out that, in our proposed plan for governance change, out-of-state status is one of a number of diversity considerations that the Supreme Court could take into account in selecting its three appointed members. Thus, this issue points up one of the advantages of our proposed plan. It will add flexibility, without any fundamental restructuring of the Bar's traditional system of district-based elections.

higher numbers as compared to California are attorney discipline oversight committees or panels that have a direct role in the adjudication or imposition of discipline. In California, the Board has no such disciplinary role. It is purely a policy board.³⁴

4. Conclusion

Much of the debate on this Task Force, at its core, boils down to a difference between, on the one hand, those who view the State Bar as a regulatory agency with a mission that is narrowly focused on attorney discipline, which leads them to want to structure the governance model of the Bar in a way that mirrors discipline oversight bodies in other states -- a setting where significant levels of public member participation are common -- and, on the other hand, those who see the State Bar as policy-making body, an adjunct to the Supreme Court, with a mission that includes a variety of important priorities, including not just discipline but also such things as helping to promote access to justice for all.

We in the majority take the broader view. The minority appears to take the narrower view. The first hint of this divergence in our views came when, during our deliberations, some members of the minority began to declare that they believe the Bar should be broken up, so that it can be charged solely and exclusively with attending to discipline and other regulatory functions, with all “trade association” functions spun off to a voluntary bar. This line of criticism is familiar. In his veto of the State Bar’s 1998 fee bill, Governor Wilson criticized the Bar for being political and questioned whether the unified bar structure should be retained. In 2009, Governor Schwarzenegger echoed many of the same criticisms. If one takes the view that

³⁴ Among the group of 13 bars with “hybrid integrated models” -- which is the closest comparison to ours -- there are only two other bars in which the policy-making board has *any* public member representation at all, and in those bars it is *de minimis*. Wisconsin’s 50-member Board of Governors includes three lay members appointed by the Wisconsin Supreme Court. And Washington D.C.’s 23-member Board includes three non-voting lay members. Thus, California already provides far more public member representation on its State Bar policy board than any comparable bars do.

the State Bar's activities outside of admissions and discipline are nothing but a distraction, a strong dislike for our unified bar structure is predictable.

In all unified bar states, it is necessary to strike a balance between regulatory activities and non-regulatory activities. Indeed, by its terms, Business and Professions Code, section 6001.2 -- which not only set up this Task Force, but at the same time directed us to create a Temporary Emergency Legal Services Voluntary Assistance Option setting aside monies to help fund legal assistance programs -- recognizes the importance of finding a fair and appropriate way to strike that balance. In doing so, we see no conflict or tension between the core regulatory goal of public protection and the closely related non-regulatory goal of promoting the fair administration of justice. We also categorically reject the premise that any member of the Board, by virtue of his or her mode of selection, is less dedicated to public protection than any other member. Because vigorously working to ensure access to justice for those who cannot afford legal services is but an aspect of our public protection mission, we believe that the real dividing line between the majority and the minority is, at bottom, whether one ultimately favors or opposes a unified bar.

In its report, the minority now openly favors disunification and makes a governance proposal that is designed to put the Bar on that path. It suggests that over the next two years this Task Force should "evaluate" and determine whether to retain the unified structure of the State Bar, while at the same time "regardless of that finding" should devise a plan to bring disunification about. We find it hard to see what there is to evaluate if the result is pre-ordained. By seeking disunification, the minority wishes to take up an old cause that long ago lost whatever force it once had. The creation of our current State Bar Court system answered any argument about attorneys being in charge of regulating themselves, and the *Keller* line of cases

defused the attacks of those who sought to portray the Bar as political in nature. The time and energy of this Task Force over the remainder of its term would be better spent on other matters. The issue of unification has been studied enough over the years and the Supreme Court has shown no appetite for it. We are concerned that the minority's interest in re-visiting the topic is an open invitation for constitutional conflict.

We say this mindful of our statutory charge, which is to “take...stock...[of] what if any structural and other potential *improvements* might make the Bar's public protection efforts as vigorous as possible.” We do not see dismantling the unified State Bar as an improvement. Converting the Bar into “just another agency” would have the effect of diminishing its stature and effectiveness as an enforcement body. It would also undermine the delivery of many services that complement our discipline system (such as continuing legal education), not to mention damage our ability to promote the fair administration of justice. Instead of destroying the Bar as we know it, the approach recommended by the majority is to retain the existing unified structure of the Bar, while improving it. Going forward, the Task Force should set an agenda for its final report that focuses not on disunification, but on further governance changes that are directly tied to discharging the Bar's mission, broadly defined. Unlike the minority, we have no pre-ordained result in mind for the final report -- other than to use the work of this Task Force to strengthen the Bar's ability to carry out *all* of our mission-critical priorities in the service of public protection, without favoring one over the other.

B. Minority Report³⁵

The State Bar should be governed by a smaller, all-appointed Board, along with the following structural and other governance changes.

1. Proposed Change to the State Bar's Statutory Charge

The existing statutory charge of the Board does not mention or refer to public protection. There should be no question in the minds of the members of the Bar, or the public, that protection of the public is the Board's highest priority. To that end, we recommend revising existing Business and Professions Code, section 6031(a) to read as follows:

"Protection of the public and improving the quality of legal services available to the people of this State shall be the highest priority for the board in exercising its licensing, regulatory and disciplinary functions. 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. Whenever protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

2. Composition of the Board

The number of Board members should be reduced from 23 to 15, nine of whom should be attorney members, with no seats reserved for any specific constituent group, and six of whom should be public members. There is no justification for maintaining the current dominance of professional over public members. As noted above (this Report, *supra*, Section II.E. at p. 15), none of the eight major professional boards studied by the task force -- for doctors, dentists, accountants, architects, engineers, pharmacists, nurses, or psychologists -- requires more than 15 members to effectively govern its licensees. During the course of our meetings and public hearings, we heard no reason why attorneys or their profession are so unique that the Bar's

³⁵ The All-Appointed Proposal is approved by: William Hebert, Dennis Mangers, Jeannine English and Michael Tenenbaum.

oversight Board should be so top heavy with its own members. We also heard no reason why the Board needs 23 members to operate. There is no evidence that governance of the Bar is any more complex than the governance of executive branch agencies, all of which have far fewer Board members.

We are recommending that the make-up of the Board continue to allow for a majority of professional members. The State Bar is the administrative arm of the Supreme Court, which is a separate and co-equal branch of government. The Supreme Court exercises plenary authority over the admission, regulation and discipline of attorneys. (See *Obrien v. Jones, supra*, 23 Cal.4th 40; *In re Attorney Discipline System, supra*, 19 Cal.4th 582.) We see no need to risk violating the separation of powers doctrine by insisting on a majority public member Board; nor do we wish to run the risk of politicizing the admission, regulation and discipline of attorneys by taking control over the State Bar away from the Court and placing it in the hands of the other branches. To avoid a clash among the separate branches of government, we recommend that the Supreme Court maintain its constitutionally mandated control over the State Bar.

3. Manner of Selection

We recommend that election of professional members by district be abolished and that all professional members of the Board be appointed by the Supreme Court. The Supreme Court can establish its own criteria, but we think at a minimum the professional members should be active members of the Bar of this State. We do not recommend any changes to the selection and appointment process for the six public members of the Board.

We make this recommendation of appointment of lawyer members because there does not appear to be any compelling reason to keep the State Bar as the only major professional oversight body in California that continues to have professionals elected by their peers as

opposed to an appropriate mix of appointed professionals and public members. No one would recommend that members of the Public Utilities Commission be elected from among members of the utilities industry; nor would anyone recommend that the insurance commissioner be elected only by members of the insurance industry. Election of the Board's professional members by other professionals places in jeopardy the principal charge of the State Bar, which is protection of the public, not protection of the licensed members.

Election by districts merely serves to compound the opportunities for mischief on the Board. Lawyers who are elected from a geographic area by their peers will tend to view themselves as representing lawyer constituents in their respective districts. As discussed above, the legislative analysis that led to the formation of the Task Force suggested that the legislature perceives that election by district has given rise to decisions by the Board that did not advance the Bar's public protection mission, and that local bars have exerted undue pressure on the members of the Board who were elected from the district in which the local bar is located. In the public hearings, we heard testimony from some local bar leaders who advocated adding seats on the Board from their cities or counties. (See e.g., Task Force Record 55, Official Transcript of January 20, 2011 Los Angeles Public Hearing, Testimony of Seymour Amster, President, San Fernando Valley Bar Association, pp. 150-152.) There is a perception among lawyers and local bar leaders alike that the lawyers on the Board who are elected from their districts give voice in the governance of the Bar to the concerns of the lawyers who reside in their districts. But the concerns of lawyers in one part of the state or another, and whether lawyers in different parts of the State have interests that diverge from each other, is irrelevant to the work of the Board. Clients in all parts of the State have a uniform interest in a strong

enforcement agency to regulate the behavior of lawyers. Elections by district do not cultivate a Board membership that has the interest of the public at heart.

Even if the pressures to vote the interests of lawyer members over the interests of the public are subtle and difficult to detect, these pressures should be rooted out. The only way we can see to eliminate actual bias on the part of Board members, or the perception among members of the public of Board bias, is to abolish elections by district.

Elections by district also preclude the participation on the Bar's governing body of qualified, out-of-state residents who are members of the Bar in good standing. We think it is time that out-of-state residents be given the chance to serve on the Bar Board. When out-of-state attorneys have challenged the requirement that members must be residents of the state to be eligible for election, their challenges have been rebuffed. (See *Hoffman v. State Bar of California* (2003) 113 Cal.App.4th 630.) But the Court of Appeal recognized that it might be time to revisit this parochial requirement. In *Hoffman*, the Court of Appeal concluded:

Hoffman's assault on sections 6015 and 6018 poses interesting policy questions concerning the continued wisdom of the in-state principal office requirement, particularly given the realities of modern transportation and communication practices that encourage multijurisdictional practice of the law. We can contemplate a day when the State Bar's multijurisdictional task force, some other committee of the State Bar, the Board or the Legislature itself takes up the issue and puts it to rigorous examination. This is as it should be. But we are not obliged, under the California Constitution, to compel the State Bar to abandon the requirement.

(*Hoffman*, 113 Cal.App.4th at p.655.)

Over 16,500 active members of the Bar reside outside of California. In this age of multijurisdictional practice and modern transportation, there is no reason they should be precluded from serving on the Board. We think it is time that the Legislature take up this issue and resolve it in favor of permitting non-resident lawyers to serve on the Board.

We believe that both the current 17-to-six ratio of professionals-to-public members and the manner by which the attorney members are elected by local constituencies will continue to cause the public and their legislative representatives to question whether the Bar is truly devoted to the to the protection of the public or the protection and welfare of its own members. Abolishing election of professional members by district should alleviate these concerns.

4. Merit Screening Committee

The Supreme Court may wish to delegate the task of selecting the nine professional members to the State Bar Board to another body. We would recommend that any legislation granting the Supreme Court the power to appoint the professional members to the Board should grant the Supreme Court the option of creating an applicant screening committee, which we have called a Merit Screening Committee (“MSC”). The MSC would solicit and receive written applications, vet the applications, interview a subset of facially qualified applicants, and send the names of at least three qualified applicants to the Supreme Court, from which it would select one applicant for each vacancy on the Board. Any legislation should provide that the Supreme Court may adopt rules to establish and populate the MSC and that the members of the MSC would serve at the pleasure of the Supreme Court. While we do not believe it is our place to prescribe the selection criteria to be adopted by the Court, our expectation would be that appointees will be screened and chosen for (a) their understanding of and focus on the core functions of the State Bar, and (b) their independence of thought. Under our proposal, the Court will be afforded the ability to select members of the MSC from a broad cross-section of the community, including members of the legal profession, the judiciary and the general public.

5. Title of Members

We recommend changing the name of the Board from “Board of Governors” to “Board of Trustees.” The elitist tone of the word “Governor” makes the Board appear somewhat pretentious and seem less accessible than a democratic institution ought to be. While some might think this a superficial change, if done in the context of broader reform, we believe it would appear consistent and appropriate.

6. Lawyer Members’ Terms of Service

Lawyer members should serve three-year terms, but upon application to the Supreme Court at the end of a three-year term, they could be re-appointed for one or more successive three-year terms. Thus, the Supreme Court would retain authority to re-appoint an attorney member on the same bases as public members may now be re-appointed. This re-appointment of attorney members for multiple terms should give the Bar continuity of governance, which it now lacks, when four of the attorney members leave each year after serving only three years, and five new members join each year. In the experience of many on the Board, the new members typically have little idea what the State Bar does, and there is a long and steep learning curve before they become effective Board members. Extending the terms of attorney members gives them parity with public members, who can be re-appointed for multiple terms. Possible extension of the lawyer members’ terms should permit the Bar Board to focus on long-range strategic planning for the organization.

The terms of the lawyer members should be staggered so that the entire Board, or even a majority, does not leave office in the same year.

7. Separate Oath of Office

All members of the Board should take a separate oath that is specifically tailored to the responsibilities of this office, and which would make public protection a priority in fulfilling their duties.

8. Manner of Selection of the President and Term of Office

Having a full-blown campaign among third year lawyer members for the Presidency is an unnecessary distraction from the important work of the organization. The President should be appointed by the Supreme Court from among the Board members who have served at least two years and who apply to the Supreme Court for the position. The term of the President should be one year, but upon application, the Supreme Court could re-appoint him or her.

9. New Ethics Legal Education Offerings by the Bar

The Bar should offer 25 hours of free continuing legal education (“CLE”) on the subject of ethics. This should be institutionalized as soon as possible as one of the strong signals that the Board is responding to the shocking conduct of some unscrupulous attorneys in the recent mortgage scandal. This, of course, needs to be done in the context of an unmistakably strong disciplinary response to those found guilty of misconduct, so that the CLE offerings are seen as a proactive element of a larger response.

10. Adoption of the Bagley-Keene Open Meeting Act

There is no justification for the State Bar to exempt itself from Bagley-Keene. We recommend adoption by Board rule or otherwise substantially all of the requirements of Bagley-Keene.

Some on the Task Force and on the Board have suggested minor modifications to Bagley-Keene to tailor its provisions to the realities of how the Board functions. We should adopt

Bagley-Keene with as few exceptions as possible and with an easily defensible rationale for each variance so the Bar is not accused of adopting Bagley-Keene “light.”

11. Unified Bar

We believe that the current unified Bar may not be the appropriate structure to enhance public protection or improve the quality of legal services. Therefore, the Task Force should be directed, by the Legislature and Governor, to evaluate whether the unified Bar advances public protection, report its conclusions, and regardless of its conclusions to submit to the Legislature, Governor and the Supreme Court by May 15, 2013, a work plan, with concrete steps and a two-year timeline for dis-unifying the Bar into (a) a separate regulatory agency supported by mandatory dues, and (b) a separate voluntary trade association.

We make this recommendation because the issue of an integrated Bar may take more time and discussion to address than our current deadline permits. It may be that it is impossible to be seen as credible watchdogs for the public if regulatory and disciplinary functions continue to be inextricably intertwined with traditional trade association functions. To date, no one on the Task Force or the Board has made a credible case for why attorneys should be the only California professionals who operate in this fashion. Advocacy for legislative objectives of the profession, services for members such as group insurance, travel, etc., should be provided by a separate trade association funded by the voluntary contributions of participating members.

12. Summary

We understand that change is difficult and sometimes a case can be made for incremental change. But how long it should change take when virtually every other profession in the State has either done these things voluntarily or otherwise with no discernable negative consequences? Those who want to maintain the *status quo*, or to advocate for cosmetic changes under the guise

that it must be “incremental,” and those who want to preserve a system of any lawyer-elections by district, when no other professional regulatory body is composed this way, bear the burden of proof that lawyers are different and should be treated differently from every other profession in our state. Preserving elections of some members, while providing for the appointment of just a few, does not address the perception of lawyer protectionism by a super-majority lawyer Board.

We therefore respectfully recommend that the legislature incorporate our recommendations into the State Bar’s 2012 dues bill, and that the Governor sign the bill into law in order to begin the process of implementing these changes immediately.

IV. TRANSITION PROCESS--REPORT OF REDISTRICTING CONSULTANT

A. Introduction

Pursuant to Business and Professions Code, section 6001.2, subdivision (b), the Task Force is charged with making recommendations for enhancing and ensuring that public protection is the highest priority in the licensing, regulation and discipline of attorneys.

Currently the Board is made up of 23 members, including:

- One Governor elected as President;
- 15 attorney member Governors elected by district;
- One attorney member Governor elected by CYLA;
- Four public members appointed by the Governor; and
- Two public members appointed by the Legislature.

Two proposals are currently before the Task Force for changing the make-up of the Board:

- 1) Majority Report –The Majority Report would eliminate 15 attorney member Governors elected by district. It would add 12 attorney member Governors elected by new multi-member districts and three attorney member Governors appointed by the Supreme Court. The result would be a 23 member board with 16 attorney members, six public members and one President.
- 2) Minority Report –The Minority Report would eliminate 15 attorney member Governors elected by district, one attorney member Governor elected by CYLA and one Governor elected as President. It would add nine attorney member Governors appointed by the Supreme Court. The result would be a 15 member

board with nine attorney members and six public members. The Supreme Court would appoint one of these 15 members to act as President.

B. Framework of Analysis

The purpose of this analysis is not to make any conclusions about the desirability of either proposal. Rather, the purpose is to highlight the transition issues and options.

Pursuant to Board direction, this analysis is limited to a three-year transition period with no existing member's terms shortened. This analysis is not comprehensive of every possibility but rather provides a framework to allow the Task Force to confront tradeoffs.

The analysis focuses on four measures:

- 1) Attorney-Public Ratio: One of the considerations before the Task Force is the ideal ratio of attorney-to-public Governors. The analysis provides information on what that ratio would be before, during and after a transition. Currently 26 - 30% of Governors are public, depending on the President
- 2) Existing Governors: Another consideration is whether the terms of existing Governors should be shortened. Under a three-year transition period no Governors would have their term shortened.
- 3) Equal Representation: The current district boundaries are configured with emphasis on providing attorney members equal representation. The analysis examines how the proposals would impact the equality of representation.
- 4) Deferral: Deferral is when a constituent has their vote for a particular office delayed. For example, when a voter is moved from a district that is due to vote in 2011 and is then moved into a district that does not vote until 2012, they are said to have been deferred.

C. **Majority Report**

The Majority Report eliminates the 15 district elected attorney member positions and replaces them with 12 elected attorney member positions from new districts and three appointed attorney members. The report outlines a specific three-year transition process and rules for shifting from the current to the new districts.

1. **Three-Year Transition**

The transition rules are based on where the current Governor is practicing when their term expires and thus cannot be perfectly modeled for future years. However, based on the current Governors and district boundaries, the most likely sequence for adding the new elected attorney member Governors would be:

Source	<i>Year 1</i>	<i>Year 2</i>	<i>Year 3</i>	Total
New District A	1	2	1	4
New District C	2		1	3
New District B		2	1	3
New District D	1			1
New District E	1			1
Appointed		1	2	3
Total	5	5	5	15

It is noteworthy that the result would be an equal number of new members each year, though the ratio of appointed to elected attorney members added would vary. It is also noteworthy that some multi-member districts would elect multiple members in one year and none in other years. The proposal does an effective job of minimizing any additional inequity issues during the transition period. No attorney Governors would have their terms shortened.

The public member portion of the BOG would remain unchanged at 26% - 30%.

Board Make-Up			Year 0	Year 1	Year 2	Year 3
Total			23	23	23	23
President	Elected		1	1	1	1
	Appointed		0	0	0	0
	Total		1	1	1	1
Attorney Members	Elected	By District (Current)	15	10	5	0
		By District (Appellate)	0	5	9	12
		CYLA	1	1	1	1
	Appointed	Court	0	0	1	3
	Total		16	16	16	16
Public Members	Appointed	Governor	4	4	4	4
		Legislature	2	2	2	2
	Total		6	6	6	6

The proposal would cause eight counties to be deferred for one year: Del Norte, Humboldt, Lake, Mendocino, Monterey, San Benito, San Luis Obispo and Santa Cruz. Approximately 2.1% of the attorney members would have no one they were eligible to vote for serving on the BOG for a year.

The Majority proposal closely approximates the current representation provided to members in the existing nine districts. The proposal also includes a carve out in the new District Five that is similar to the current carve out for District One providing for representation for a geographically large community of interest. With this carve out the total deviation for the remaining district's is 34.0%, slightly less than the current 37.7%. Like the current model the proposal also includes a redistricting mandate to adjust for possible future inequities.

It is also noteworthy that the proposal does not include provisions for adjusting district boundaries in the future. Thus the deviations may increase or decrease over time as the distribution of attorneys changes in the state.



District	# Attorney Members	# Governors	Attorney Member to Governor Ratio	Deviation from Ideal
A	63,997	4	15,999	5.6%
C	41,445	3	13,815	-8.8%
B	56,922	3	18,974	25.2%
D	14,519	1	14,519	-4.2%
E	4,975	1	4,975	(Carve out)

2. Conclusions

The proposal does not change the current attorney-public ratio. It does offer an orderly transition from one set of district boundaries to another. With the carve out for District Five and mandate for periodic redistricting it addresses equal representation issues as well as the current structure. It does cause some small deferral issues.

D. Minority Report

The Minority Proposal eliminates the 16 elected attorney member positions (district and CYLA) and one elected President position and replaces them with nine appointed attorney member positions. The President would be appointed by the Supreme Court from the 15 members beginning in *Year 1*. Two different three-year transition periods are outlined.

1. Three-Year Transition - Immediate Addition of New Members

This option has the transition occur over three years with all the appointed attorney members added in *Year 1*. Attorney members elected by districts would serve their full terms. It would also require the Supreme Court to appoint nine new attorney members in *Year 1*. Consistent with the goal of having staggered appointments in the future, some of the new appointed attorney members would be full terms, some two-year terms and some one-year terms (i.e. three 3-year terms, three 2-year terms and three 1-year terms).

Board Make-Up			<i>Year 0</i>	<i>Year 1</i>	<i>Year 2</i>	<i>Year 3</i>
Total			23	25	20	15
President	Elected		1	0	0	0
	Appointed		0	*	*	*
	Total		1	*	*	*
Attorney Members	Elected	By District (Current)	15	10	5	0
		By District (appellate)	0	0	0	0
		CYLA	1	0	0	0
	Appointed	Court	0	9	9	9
	Total		16	19	14	9
Public Members	Appointed	Governor	4	4	4	4
		Legislature	2	2	2	2
	Total		6	6	6	6

** Note the President would not be an additional member of the Board but rather appointed from the existing membership beginning in Year 1.*

The public member portion of the BOG would drop from the current 26-30% to 24-28% in *Year 1*, then increase to 30-35% in *Year 2* before reaching 40-47% in *Year 3*. No attorney Governors would have their terms shortened. There would be some inequity issues during the transition period as not all district elected seats would end simultaneously. Specifically three district seats would be eliminated in *Year 1* from Southern California while in *Year 2*, three would be eliminated from the Bay Area. As it would eliminate district elections, there are no

deferral issues. Districts 1, 2, 3 and 5 would have no district-elected Governor for at least one year during the transition period.

2. Three-Year Transition - Staggered Addition of New Members

This option has the transition occur over three years with appointed attorney members added each year. Attorney members elected by districts would serve their full terms. It would also require the Supreme Court to appoint three new attorney members each year, consistent with the goal of having staggered appointments, and one new President.

Board Make-Up			Year 0	Year 1	Year 2	Year 3
Total			23	19	17	15
President	Elected		1	0	0	0
	Appointed		0	*	*	*
	Total		1	*	*	*
Attorney Members	Elected	By District (Current)	15	10	5	0
		By District (Appellate)	0	0	0	0
		CYLA	1	0	0	0
	Appointed	Court	0	3	6	9
	Total		16	13	11	9
Public Members	Appointed	Governor	4	4	4	4
		Legislature	2	2	2	2
	Total		6	6	6	6

** Note the President would not be an additional member of the Board but rather appointed from the existing membership beginning in year one.*

The public member portion of the BOG would increase from the current 26 - 30% to 32 - 37% in *Year 1*, to 35 - 41% in *Year 2* before reaching 40 - 47% in *Year 3*. No attorney Governors would have their terms shortened. There would be some inequity issues during the transition period as not all district elected seats would end simultaneously. Specifically three district seats would be eliminated in *Year 1* from Southern California while in *Year 2*, three would be eliminated from the Bay Area. As it would eliminate district elections, there are no

deferral issues. Districts 1, 2, 3 and 5 would have no district-elected Governor for at least one year during the transition period.

3. Conclusions

The key difference between the two options is that immediately adding the appointed positions would allow the Supreme Court to more quickly influence the make-up of the Board but would also cause a temporary drop in the portion of public members.

E. Summary

Board Make-Up			Current	Majority	Minority
Total			23	23	15
President	Elected		1	1	0
	Appointed		0	0	*
	Total		1	1	*
Attorney Members	Elected	By District (Current)	15	0	0
		By District (Appellate)	0	12	0
		CYLA	1	1	0
	Appointed	Court	0	3	9
	Total		16	16	9
Public Members	Appointed	Governor	4	4	4
		Legislature	2	2	2
	Total		6	6	6

** Note, under the Minority Report, the President would not be an additional member of the Board but rather appointed from the existing membership.*

Proposal	Transition Period	Public Portion	Public Portion Percentage	# Govs Terms Shortened	Equal Representation Issues	Deferral
Majority	Three Year as Specified	Year 1	26-30%	0	District 5 Carve Out	2.1%
		Year 2	26-30%			
		Year 3	26-30%			
Minority	Three Year Immediate	Year 1	24-28%	0	So Cal in year 1; Bay Area in year 2	None
		Year 2	30-35%			
		Year 3	40-47%			
	Three Year Staggered	Year 1	32-37%	0	So Cal in year 1; Bay Area in year 2	None
		Year 2	35-41%			
		Year 3	40-47%			

V. PROPOSED CHANGES TO THE BUSINESS AND PROFESSIONS CODE

MAJORITY REPORT

CALIFORNIA CODES: BUSINESS AND PROFESSIONS CODE SECTIONS 6010-6031

6010. The State Bar is governed by a board known as the ~~board of governors~~ Board of Trustees of the State Bar. The board has the powers and duties conferred by this chapter.

6011. The board consists of 22 members and the President of the State Bar.

~~6012.5. 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.~~

6012. State Bar Districts, as they exist on December 31, 2011, shall cease for purposes of the election of attorney members of the board thereafter. Attorney members who were elected in 2009, 2010 or 2011 to serve for a three year term commencing at the conclusion of the annual meeting held in those years shall be eligible to serve their full three year terms.

Commencing on January 1, 2012, State Bar Districts shall be based on the counties included in the districts of the Court of Appeal as constituted pursuant to Government Code section 69100, as they exist on December 31, 2011, except that the counties included in the First Appellate District and the Sixth Appellate District shall be combined into a single State Bar District. The board shall provide for the election of twelve attorney members of the board from these five State Bar Districts.

Every 10 years thereafter, the board shall adjust the counties included in the State Bar Districts as they existed on January 1, 2012 and shall provide for the election of attorney members of the board from those districts. The primary considerations to be employed when adjusting the counties included in the State Bar Districts shall be the maintenance of communities of interest and the development of an equitable distribution of attorney members to governors in each district.

6013.1 Three members of the board shall be attorneys appointed by the Supreme Court pursuant to a process that the Supreme Court may prescribe. Each attorney member shall serve for a term of three years, and may be reappointed by the Supreme Court.

(a) No attorney member shall be appointed in 2012.

(b) One attorney member shall be appointed in 2013 for a term commencing at the conclusion of the 2013 annual meeting.

(c) Two attorney members shall be appointed in 2014 for terms commencing at the conclusion of the 2014 annual meeting.

(d) No attorney member terms expire in 2015. Commencing in 2016, an attorney member shall be appointed by the Supreme Court for a term commencing at the conclusion of the annual meeting at which the term of an appointed attorney member expires.

(e) Notwithstanding the provisions of Section 6017, an elected attorney member may be appointed by the Court to a term as an appointed attorney member commencing at the conclusion of the annual meeting at which his or her term as an elected member expires.

(f) The Court shall fill any vacancy in and make any reappointment of any appointed attorney member.

~~6013.1.2. The attorney membership of the board is~~ Thirteen members of the board shall be attorneys elected and composed of:

(a) ~~Fifteen~~ Twelve members to be elected from the State Bar Districts created by the board pursuant to Sections ~~6012.5~~ 6012 and 6017.

(b) One member from the membership of the California Young Lawyers Association ~~appointed~~ elected pursuant to Section 6013.4.

~~This section shall become operative on July 1, 1990.~~

6013.4. 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.

6013.5. 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~~ 2013 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~~ 2012 and 2014, 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.

6013.6. (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~~ Trustees of 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~~ Trustees 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~~ Trustees of the State Bar of California by a person employed by a public agency is in the public interest.

~~6014. 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.~~

6015. 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 or within the State of California if appointed by the Supreme Court.

6016. 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 or appointment, and he or she shall hold office until his or her successor is elected or appointed and qualified. Within the meaning of this section, the time intervening between any two successive annual meetings is deemed to be one year.

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

The ~~board of governors~~ Board of Trustees 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.

~~6017. 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.~~

Twelve attorney members of the board shall be elected for terms of three years each as follows:

(a) In 2012, one member each shall be elected from State Bar Districts A, D and E and two members from District C. [NOTE: roughly denoted as LA, Sacramento, Fresno, and San Diego/Riverside/Orange respectively]

(b) In 2013, two members shall be elected from State Bar District A and two members shall be elected from State Bar District B. [NOTE: roughly denoted as LA and SF/San Jose, respectively]

(c) In 2014, one member each shall be elected from State Bar Districts A, B, and C. [NOTE: roughly denoted as LA, SF/Jose, and San Diego/Orange/Riverside, respectively]

Thereafter, 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.

No person shall be nominated or eligible for election 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.

6018. Nominations of elected 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.

6019. Each place upon the board for which a member is to be elected or appointed shall for the purposes of the election or appointment 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.

6020. 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.

6021. 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.

6022. The secretary shall be selected annually by the board and need not be a member of the State Bar.

6023. The officers of the State Bar shall continue in office until their successors are elected and qualify.

6024. 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.

6025. 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.

6026. 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.

6026.5. 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.

6027. Special meetings of the State Bar may be held at such times and places as the board provides.

6028. (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.

6029. The board may appoint such committees, officers and employees as it deems necessary or proper, and fix and pay salaries and necessary expenses.

6030. 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.

6031. (a) Protection of the public and improving the quality of legal services available to the people of this State shall be the highest priority for the board in exercising its licensing, regulatory and disciplinary functions. 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. Whenever protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

(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.

MINORITY REPORT (ALL-APPOINTED)

CALIFORNIA CODES: BUSINESS AND PROFESSIONS CODE SECTIONS 6010-6031

6010. The State Bar is governed by a board known as the ~~board of governors~~ Board of Trustees of the State Bar. The board has the powers and duties conferred by this chapter.

6011. The board consists of ~~22~~ 15 members ~~and the President of the State Bar.~~

~~6012.5. 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.~~

~~6013.1. 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.~~

~~6013.4. 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.~~

6013. Nine members of the board shall be attorneys appointed by the Supreme Court pursuant to a process that the Supreme Court may prescribe. Each attorney member shall serve for a term of three years, and may be reappointed by the Supreme Court.

(a) Three attorney members shall be appointed by the Supreme Court for terms commencing at the conclusion of the 2012 annual meeting.

(b) Three attorney members shall be appointed by the Supreme Court for terms commencing at the conclusion of the 2013 annual meeting.

(c) Three attorney members shall be appointed by the Supreme Court for terms commencing at the conclusion of the 2014 annual meeting and the conclusion of each annual meeting thereafter.

(d) The Court shall fill any vacancy in and make any reappointment of any attorney member.

6013.1 Attorney members who were elected in 2009, 2010 or 2011 to serve for a three year term commencing at the conclusion of the annual meeting held in those years shall be eligible to serve their full three year terms.

6013.5. 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~~ 2013 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~~ 2012 and 2014, 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.

6013.6. (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~~ Trustees of 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~~ Trustees 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~~ Trustees of the State Bar of California by a person employed by a public agency is in the public interest.

~~6014. 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.~~

6015. 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.~~

6016. 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~~ appointment, and he or she shall hold office until his or her successor is ~~elected~~ appointed and qualified. Within the meaning of this article, the time intervening between any two successive annual meetings is deemed to be one year.

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

The board of ~~governors~~ trustees 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.

~~6017. 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.~~

~~6018. 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.~~

~~6019. 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.~~

6020. The officers of the State Bar are a president, ~~four vice-presidents~~, a secretary, and a treasurer, and any vice-presidents as may be designated by the board of trustees. One of the vice presidents may also be elected to the office of treasurer.

6021. ~~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.~~

The president of the board shall be appointed annually by the Supreme Court. The president shall be appointed from among those members of the board who will have served at least two years of their terms by the conclusion of the annual meeting and who apply to the Supreme Court for appointment as president. The president shall assume the duties of the office at the conclusion of the annual meeting following his or her appointment. The president may be reappointed by the Supreme Court.

6021.5 The treasurer and the vice-presidents shall be selected annually by the board from among its members who have at least one more year to complete their respective terms. The treasurer and vice-presidents shall assume the duties of the office at the conclusion of the annual meeting.

6022. The secretary shall be selected annually by the board and need not be a member of the State Bar.

6023. The officers of the State Bar shall continue in office until their successors are ~~elected~~ appointed or selected and qualify.

6024. 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, the treasurer or the secretary, respectively, 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.

6025. 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.

6026. 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.

6026.5. 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.

6027. Special meetings of the State Bar may be held at such times and places as the board provides.

6028. (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.

6029. The board may appoint such committees, officers and employees as it deems necessary or proper, and fix and pay salaries and necessary expenses.

6030. 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.

6031. (a) Protection of the public and improving the quality of legal services available to the people of this State shall be the highest priority for the board in exercising its licensing, regulatory and disciplinary functions. The board may aid in all matters pertaining to the advancement 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. Whenever protection of the

public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

(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.

VI. CONCLUSION

Pursuant to Business and Professions Code, section 6001.2, subdivision (b), the Task Force hereby submits this initial report to the California Supreme Court, the Governor, and the Assembly and Senate Committees on Judiciary.

Dated: May 11, 2011

Respectfully submitted,



William N. Hebert
Chair, Governance in the Public Interest Task Force
President, The State Bar of California

APPENDIX A

TASK FORCE RECORDS	
1.	9-26-10 Notice and Agenda
2.	10-6-10 Notice and Agenda
3.	• Assembly Bill No. 2764
4.	• Background Materials for the Governance in the Public Interest Task Force
5.	• Proposed Governance Task Force Timeline
6.	11-9-10 Notice and Agenda
7.	• 10-6-10 Task Force Report
8.	• Governance Task Force Timeline
9.	• Governance in the Public Interest Task Force Charge
10.	• Other States' Governance Models – Report From Subcommittee
11.	• Other State Licensing Agencies – Report From Sub Committee
12.	• Board Of Governors Elections Costs and Member Participation
13.	11-20-10 Notice and Agenda
14.	• 11-9-10 Task Force Report
15.	• A Handy Guide to the Bagley-Keene Open Meeting Act 2004
16.	• Guide to the Bagley-Keene Open Meeting Act Prepared by the Department of Consumer Affairs
17.	• Application of Bagley-Keene Open Meeting Act to State Bar Meetings
18.	• Draft – Request for Information
19.	• Loren Kieve Drafted Questions for Request For Information
20.	12-3-10 Notice and Agenda
21.	• 11-20-10 Task Force Report
22.	• Summary and Final Recommendations – The Future of The California Bar (From 1995 Report)
23.	• 11-29-10 Letter from Amy C. Anderson, Assistant to General Counsel, to Governance Task Force
24.	• Draft – the State Bar of California: What Does It Do? How Does It Work?
25.	• Draft – Request For Information From State Bar Governance in the Public Interest Task Force Chair, William Hebert
26.	• Request For Information – Governance Task Force Public Meetings
27.	• Proposed Additions to Request For Information
28.	1-20-11 Notice and Agenda
29.	• 12-3-10 Task Force Report
30.	• 1-20-11 Los Angeles Public Hearing Speakers and Responses (Final)
31.	• 1-20-11 Written Responses to Request For Information (To Date)
32.	• Distribution List of Organizations and Interest Groups
33.	1-27-11 Notice and Agenda
	• 12-3-10 Task Force Report (See Task Force Record Number 29)
34.	• 1-20-11 Task Force Report
35.	• 1-27-11 San Francisco Public Hearing Speakers and Responses (Final)
	• Distribution List of Organizations and Interest Groups (See Task Force Record Number 32)

TASK FORCE RECORDS	
	1-27-11 Written Responses to Request For Information (See Task Force Record Number 31)
	1-20-11 Los Angeles Public Hearing Speakers and Responses (See Task Force Record Number 30)
36.	On The Record -The Future of the California Bar, Final Report of the Commission of the Future of the Legal Profession and The State Bar of California, April 1995
37.	2-8-11 Notice and Agenda
38.	1-27-11 Task Force Report
	1-20-11 Los Angeles Public Hearing Speakers and Responses (See Task Force Record Number 30)
	1-27-11 San Francisco Public Hearing Speakers and Responses (See Task Force Record Number 35)
	1-27-11 Written Responses to Request For Information (See Task Force Record Number 31)
39.	Survey Responses Submitted to Governance Task Force
40.	Powerpoint Presentation of Governance Task Force Chair, Bill Hebert
41.	Governance Task Force Electronic Record of Survey Responses
42.	3-2-11 Notice and Agenda
43.	2-8-11 Task Force Report
44.	Updated Governance Task Force Timeline
45.	Wells Lyman Proposal
46.	Jon Streeter & Angela Davis Proposal
47.	Distilled Outline Of 2-8-11 Powerpoint Presentation of Governance Task Force Chair, Bill Hebert
48.	Loren Kieve Proposal
49.	Michael Tenenbaum Proposal
50.	3-25-11 Notice and Agenda
51.	3-2-11 Task Force Report
52.	Updated Governance Task Force Timeline
53.	Dennis Mangers Proposal
54.	Written Responses to Request For Information 2/1/11
55.	Official Transcript 1-20-11 Los Angeles Public Hearing Speakers
56.	Official Transcript 1-27-11 San Francisco Public Hearing Speakers
57.	3-11-11 Revised Governance Reform Proposal By Streeter & Davis
58.	4-13-11 Notice and Agenda
59.	3-25-11 Task Force Report
60.	All-Appointed Proposal Submitted 3-31-11 by William Hebert, Jeannine English, Dennis Mangers, and Michael Tenenbaum
61.	Comprehensive Governance Reform Proposal Submitted 4-13-11 By Jon Streeter, Angela Davis, Gwen Moore, Wells Lyman, Lowell Carruth, Loren Kieve, and Luis Rodriguez
62.	3-21-11 Real Property Law Section, The State Bar of California

TASK FORCE RECORDS	
63.	• 3-24-11 Taxation Section, The State Bar of California
64.	• Position Statement of California Young Lawyers Association
65.	• 4-11-11 Santa Clara County Bar Association • IBA Standards for the Independence of the Legal Profession (Submitted by SCCBA)
66.	5-5-11 Notice and Agenda
67.	• 4-13-11 Task Force Report
68.	• 4-13-11 Public Law Section, The State Bar of California