

7.4 Consideration of Legislative Priorities for 2025; Update of Guiding Principles for Legislative Program



The State Bar of California

OPEN SESSION AGENDA ITEM 7.4 MAY 2025 BOARD OF TRUSTEES

DATE: May 22, 2025

TO: Members, Board of Trustees

FROM: Donna S. Hershkowitz, Chief of Admissions/Legislative Director

SUBJECT: Consideration of Legislative Priorities for 2025; Update of Guiding Principles for Legislative Program

EXECUTIVE SUMMARY

Each year the Board of Trustees considers, consistent with the [State Bar Legislative Program: Purpose and Guiding Principles](#), what legislative priorities to adopt and affirmative proposals to advance. This staff report recommends not adopting legislative priorities or advancing affirmative proposals for 2025 and instead focusing legislative efforts this year on advancing the fee bill, responding to the significant issues facing the State Bar in the admissions space, and providing appropriate technical assistance on several bills that the State Bar is currently following. This staff report also includes a recommendation from leadership of the Legal Services Trust Fund Commission (LSTFC) to provide the LSTFC flexibility to advance policies or positions through the Legislature on its own to the extent they impact funds and programs within the jurisdiction of the LSTFC, but not the State Bar General Fund.

RECOMMENDED ACTION

Staff recommend that the Board not set legislative priorities or identify affirmative legislative proposals for 2025. Staff further recommend that the Board adopt changes to the “State Bar Legislative Program: Purpose and Guiding Principles” to provide the LSTFC limited authority to advocate on its own for policies or positions in defined circumstances.

DISCUSSION

CONSIDERATION OF LEGISLATIVE PRIORITIES AND AFFIRMATIVE LEGISLATIVE PROPOSALS

Staff recommend maintaining laser focus on two primary issues this year in the legislative process:

- Providing information necessary to advance the annual fee bill, that is, the legislation that sets the attorney licensing fee for 2026;
- Addressing the anticipated continued legislative interest in evaluating the failures of the February 2025 bar exam in an effort to prevent any similar occurrence in the future.

Staff would also continue to provide technical assistance on measures that impact the State Bar.

As in prior years, the State Bar began to develop a legislative agenda for the Board's consideration. Proposals presented to the legislative director for consideration include:

- Clean-up of conflict of interest provisions in Business and Professions Code section 6038 to make clear the penalties for violation of conflict provisions in sections 66036 and 6037 apply to contractors and volunteers who are also subject to the State Bar's Conflict of Interest Code.
- Clarification that the State Bar's request for proposal procedure is set forth not in rule, as required by Business and Professions Code section 6008.1, but rather in the State Bar's General Procurement Manual.
- Amendment of the Bagley-Keene Open Meeting Act to allow for closed session discussions of the Board of Trustees to discuss disciplinary matters that are confidential under Business and Professions Code section 6068.1.
- Exploring extending immunities for liability for acts within their scope of work to State Bar contractors, such as Special Deputy Trial Counsel.
- Clarification that the duty of the State Bar to maintain permanent records of discipline, does not extend to non-disciplinary matters within the State Bar's jurisdiction.
- Explore legislative interest in giving the State Bar authority to institute legal proceedings to recover funds from deceased attorney's IOLTA accounts with the money deposited in the Client Security Fund.
- Add an exemption to disclosure under the California Public Records Act for records that have been expunged.
- Clarification to the new requirements to certify alternative dispute firms and practitioners.

Resource constraints have prevented the work up of most of these matters. In addition, staff have been concerned that while the Legislature is raising questions about transparency and accountability, amendments, no matter how appropriate, to allow for closed sessions and exemptions from disclosure under the CPRA, will face hurdles that they would not in other years. Staff believe that the best course of action for 2025 is to work closely with legislative staff on the fee bill, to keep them informed about any developments related to the bar exam, and to otherwise not pursue legislative priorities, and to continue to provide technical assistance. Staff propose to work up the above items for 2026 in lieu of 2025.

AUTHORIZING THE LSTFC TO ADVOCATE ON ITS OWN ON ISSUES NARROWLY WITHIN ITS PURVIEW

In May 2022, the Board updated the State Bar Legislative Program: Purpose and Guiding Principles, setting forth the types of matters on which the State Bar engages with the legislative and executive branches in alignment with its Strategic Plan.

Effective January 1, 2022, the Legislature enacted Business and Professions Code section 6210.5 codifying the Legal Services Trust Fund Commission (LSTFC) and giving the LSTFC a degree of independence from the Board. For example, the statute requires the LSTFC to recommend to the Board rules related to administration of IOLTA grants, but provides that the Board shall approve such rules unless the Board “makes a finding in writing that a recommendation conflicts with a statutory, fiduciary, or legal obligation of the State Bar.” As such, in essence, the statute gives the LSTFC authority with regard to policy decisions.

In that same vein, leadership of the LSTFC have requested the ability to advocate directly on legislative matters without Board action, and in the name of the LSTFC not the State Bar or the Board. Attachment A, crafted with the input of LSTFC leadership, would authorize the LSTFC to independently advocate for policies and take positions on legislation relating to specific issues within the purview of the LSTFC. The proposal requires coordination with the State Bar’s legislative director to ensure that none of the policies or positions the LSTFC proposes to advance impact the State Bar’s general fund.

PREVIOUS ACTION

January 18–19, 2024, [Adoption of Preliminary 2024 Legislative Priorities and Affirmative Legislative Proposals](#)

March 21–22, 2024, [Update on Legislation and Adoption of Affirmative Legislative Proposals](#)

May 16–17, 2024, [Discussion and Approval of Current and New 2024 Legislative Priorities and Affirmative Legislative Proposals](#)

January 19–20, 2023, [Approval of 2023 Legislative Priorities](#)

May 18–19, 2023, [Discussion and Adoption of Additional Legislative Priorities](#)

May 19–20, 2022, [Approval of Revised Guiding Principles for the state Bar Legislative Program; Recommended Positions on Legislation and Budget Items](#)

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None

RESOLUTIONS

Should the Board of Trustees concur, it is:

RESOLVED, that the Board of Trustees, in lieu of adopting specific legislative priorities and affirmative legislative proposals, directs staff to focus 2025 legislative efforts on advancing the fee bill, responding to the significant issues facing the State Bar in the admissions space, and providing appropriate technical support; and it is

FURTHER RESOLVED, that the Board of Trustees adopts the revised State Bar Legislative Program: Purpose and Guiding Principles, set forth as Attachment A.

ATTACHMENT LIST

- A.** State Bar Legislative Program: Purpose and Guiding Principles (Redline)

State Bar Legislative Program: Purpose and Guiding Principles

(As Adopted ~~May 19, 2022~~ May 22, 2025)

The State Bar's legislative program is guided by the mission of the State Bar. As set forth in the Strategic Plan for 2022–2027, the State Bar of California's mission is to protect the public and includes the primary functions of licensing, regulation, and discipline of attorneys; the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system.

Guiding Principles:

The purpose of the legislative program is to pursue legislation in furtherance of the State Bar mission, monitor legislative activity, and represent and advocate for the State Bar on legislative, policy, and budget matters before the Legislature and Governor.

The State Bar seeks to ensure that laws are in place that enhance the ethical and competent practice of law, the ability to effectively license and regulate lawyers in a manner that protects the public, and provide an effective, fair, just, and appropriate system for the discipline of attorneys who commit misconduct and pose a risk of harm to the public. The State Bar seeks to promote laws to enhance access to the profession and the justice system.

The State Bar strives to promote greater diversity, equity, and inclusion in the legal profession. The State Bar seeks to promote laws that identify effective new tools and appropriate funding for, or eliminate unnecessary obstacles to, carrying out the State Bar's public protection mission.

The State Bar's legislative program seeks to advance the following four goals of the State Bar's Strategic Plan:

Goal 1: Protect the public by strengthening the Attorney Discipline System: Administer an attorney discipline system that is efficient, accountable, and transparent.

Goal 2: Protect the public by enhancing access to and inclusion in the legal system: Increase access to the legal system through public outreach and education, improved access to legal advice and services, and a legal profession that reflects the diversity of California.

Goal 3: Protect the public by regulating the legal profession: Promote the ethical and competent practice of law and prevent misconduct by providing education, resources, and support for the legal profession.

Goal 4: Protect the public by engaging partners: Engage partners and stakeholders to enhance public protection and restore the State Bar's credibility, reputation, and impact.

Goal 5: Protect the public through the use of technology and responsible data

management: Strategically invest in and implement technology infrastructure, cybersecurity, and next-generation tools and systems to increase the efficiency and effectiveness of the State Bar.

With regard to all of the above, the Board of Trustees, or its designee, shall establish legislative priorities and direct positions on legislation. Except as set forth in this policy, subentities shall not take positions independently from the State Bar.

In addition, as a state agency, the State Bar monitors and takes positions on legislation that affect the internal operations of the State Bar, such as legislation that impacts the State Bar as an employer, as an owner of commercial property, as a state agency subject to contracting requirements, open meeting requirements, and open records requirements. With regard to such matters, the executive director of the State Bar shall establish legislative priorities and direct positions on legislation in consultation with the Board chair and vice-chair.

Notwithstanding the foregoing, the Legal Services Trust Fund Commission (LSTFC) may independently advocate for policies and take positions on legislation relating to the following: administration of Interest on Lawyer Trust Accounts (IOLTA) grants, Equal Access Funds, or similar funds or grant monies intended for the support of qualified legal services projects and qualified support centers, as those terms are defined in section 6213 of the Business and Professions Code. However, the LSTFC may not take positions or advance legislation that impacts the State Bar general fund. The LSTFC shall provide advance notice to the State Bar's legislative director to determine whether the position the LSTFC seeks to advance impacts the State Bar general fund. The legislative director will provide that determination prior to the meeting of the LSTFC (or any of its committees to which the LSTFC has delegated authority) in which the LSTFC will consider the proposed position. To the extent the LSTFC disagrees with the legislative director's determination that pending legislation or potential positions will impact the State Bar general fund, the LSTFC can request review of that by the Board of Trustees. The LSTFC shall keep the State Bar's legislative director apprised of all positions communicated to the Legislature or Governor's office and shall seek to coordinate its advocacy efforts on these matters with the State Bar.