

President Einhorn called the meeting to order at 10:00 a.m., November 22, 2013 at the Michael Franck Building in Lansing, MI.

Commissioners present:

Kathleen M. Allen	Andrea Irons
Danielle Mason Anderson	Felicia O. Johnson
Dennis M. Barnes	C. Thomas Ludden
David R. Brake	E. Thomas McCarthy, Jr.
Danielle M. Brown	Maureen M. McGinnis
Robert J. Buchanan	Lawrence P. Nolan, Secretary
Timothy J. Burns	Colleen A. Pero
Lori A. Buiteweg, Vice President	Victoria A. Radke
Margaret A. Costello	Donald G. Rockwell, Treasurer
Richard L. Cunningham	Thomas C. Rombach, President-Elect
Brian D. Einhorn, President	Hope V. Shovein
D. Randall Gilmer	Richard J. Siriani
Stephen J. Gobbo	Gregory L. Ulrich
Jennifer M. Grieco	Vanessa Peterson Williams
Edward L. Haroutunian	

Commissioners absent and excused:

Commissioners Jules B. Olsman, Daniel D. Quick and Hon. Michael J. Riordan were absent and excused.

State Bar Staff present:

Janet Welch, Executive Director
Marge Bossenbery, Executive Coordinator
Nancy Brown, Director, Member Services and Communication
Gregory Conyers, Director, Diversity
Candace Crowley, Director, External Development
Peter Cunningham, Director, Governmental Relations
Dawn Evans, Director, Professional Standards Division
Cliff Flood, General Counsel
Brian Hildreth, Director, Information Technology Services Division
James Horsch, Director, Finance and Administration Division
Robert Mathis, Pro Bono Attorney
Samantha Meinke, Communications Manager
Anne Smith, Administrative Assistant
Kari Thrush, Manager, Membership Services and Events
Anne Vrooman, Director, Research and Development

Guests

Nell Kuhnmuensch, Governmental Consultant Services, Inc.

The Board received the minutes from the September 18, 2013 board meetings, and the September 3 and September 30 Executive Committee calls.

The Board received the recent activities of the President.

The Board received the recent activities of the Executive Director.

The Board received the FY 2013 draft financial reports through September 30, 2013 and the Financial Safety Margin calculation.

The Board received the District Character and Fitness Committee Appointments and the Client Protection Fund Claims.

A motion was offered and seconded to approve the consent agenda. The motion was approved.

COMMISSIONER COMMITTEES

Finance, Donald G. Rockwell, Chairperson **FY2013 Financial and Investment Update**

Mr. Rockwell presented the Board with a FY 2013 Financial and Investment update.

Mr. Rockwell informed the Board that as of November 20, 2013, 71% of the SBM members have paid their bar dues and 36% of those members paid on-line.

Mr. Rockwell asked Mr. Horsch to provide the Board with the annual report of the SBM finances. Mr. Horsch provided a power point presentation on this issue.

Audit Committee, Donald G. Rockwell, Chairperson

Mr. Rockwell informed the Board that the Audit Committee met by conference call on November 15. He provided the Board with an update on the State Bar's ongoing audit.

Professional Standards, Lawrence P. Nolan, Chairperson

Mr. Nolan reported that the committee approved the Client Protection Fund Claims and the District Character and Fitness Committee Appointments at its meeting this morning.

Programs and Services, Lori A. Buiteweg, Chairperson

Ms Buiteweg presented the Board with the event summary for the 2013 State Bar Annual Meeting.

Ms. Buiteweg presented the request from the Charles A. Pratt Bar Association for recognition as a special purpose bar association by the State Bar. A motion was offered and seconded to approve this request. The motion was approved

Public Policy, Image and Identity, Thomas C. Rombach, Chairperson

The Board received a written report from Justice Initiatives.

The Board received a legislative update from Nell Kuhnmuensch, Governmental Consultant Services, Inc.

Court Rules

ADM File No. 2013-28 Proposed Amendment of Rule 2.510 of the Michigan Court Rules

The proposed amendments of MCR 2.510 would allow courts to authorize prospective jurors to complete and return questionnaires electronically, and would allow courts to create and maintain them electronically (i.e., in any medium authorized by court rules pursuant to MCR 1.109). The proposed change also would delete language in MCR 2.501(D) to clarify that the chief judge is responsible for initiation of the court's policies for summoning prospective jurors.

A motion was offered and seconded to support the proposed amendment with the amendment that the word "completed" in (C)(3) be changed to "returned" in order to match the language of (c)(1). The motion was approved.

Legislation

H.R. 2509 and S.B. 1224: Civil Justice Tax Fairness Act of 2013

These two identical bills amend the Internal Revenue Code to allow: (1) an exclusion from gross income for amounts received (whether by judgment or settlement, as lump sums or periodic payments) on account of a claim of unlawful discrimination; (2) income averaging for backpay and frontpay amounts received from such claims; and (3) an exemption from the alternative minimum tax (AMT) for any tax benefit resulting from the income averaging of amounts received from an unlawful discrimination claim.

The committee recommends that this legislation be deferred until the January meeting to allow for further Keller analysis.

Criminal Expunction

HB 5018 (Leonard) Criminal procedure; expunction; requirement for attorney general review of a set-aside application; eliminate. Amends sec. 1 of 1965 PA 213 (MCL 780.621).

HB 5019 (Johnson, J.) Juveniles; criminal procedure; requirement for attorney general review of a set-aside application; eliminate. Amends sec. 18e, ch. XA of 1939 PA 288 (MCL 712A.18e).

The committee recommends that this legislation be deferred until the January meeting for further research into the Attorney General's position on this matter.

SB 0518 (Proos) Traffic control; traffic regulation; use of vehicle boots for failure to satisfy certain court obligations; allow. Amends sec. 4803 of 1961 PA 236 (MCL 600.4803).

A motion was offered and seconded to oppose this legislation. The motion was approved.

Discussion

SB 0652/PA 164 (Jones) Courts; judges; court of claims; provide for certain number of court of appeals judges to serve as court of claims judges, and expand jurisdiction. Amends secs. 308, 841, 6404, 6407, 6410, 6413, 6419, 6421 & 8304 of 1961 PA 236 (MCL 600.308 et seq.) & repeals sec. 6419a of 1961 PA 236 (MCL 600.6419a).

The committee recognized that this legislation has already been signed by the Governor and did not take any action.

HB 5156 (Shirkey) Courts; judges; court of claims exceptions to trial by court without jury; provide for under certain circumstances. Amends sec. 6421 of 1961 PA 236 (MCL 600.6421).

A motion was offered and seconded to discuss the legislation at the December 2, 2013 meeting. The motion was approved.

HB 5153 (Walsh) Courts; judges; salary formula for judges; modify. Amends secs. 304, 555, 821 & 8202 of 1961 PA 236 (MCL 600.304 et seq.).

A motion was offered and seconded to discuss the legislation at the December 2, 2013 meeting. The motion was approved.

HB 5154 (Leonard) Criminal procedure; preliminary examination; certain rules and procedures for conducting a preliminary examination; revise. Amends secs. 4, 7, 11a, 11b & 13, ch. VI of 1927 PA 175 (MCL 766.4 et seq.).

HB 5155 (Walsh) Courts; district court; probable cause conferences in felony and misdemeanor cases; clarify district court's jurisdiction. Amends secs. 8311 & 8511 of 1961 PA 236 (MCL 600.8311 & 600.8511) & repeals sec. 2167 of 1961 PA 236 (MCL 600.2167).

The committee recommends that this legislation be deferred until the January meeting.

Judicial Campaign Disclosure

- a. SBM Letter to Secretary of State and Response
- b. Proposed Rules
- c. SB 0661 (Meekhof) Campaign finance; contributions and expenditures; general amendments; provide for. Amends secs. 33, 46, 52, 52a & 69 of 1976 PA 388 (MCL 169.233 et seq.).

The committee discussed this item and in response to the recent decision of Secretary of State Ruth Johnson's the committee provides this as an informational item.

President's Report, Brian D. Einhorn, President

Mr. Einhorn reminded the Board of their obligation to contact the section that they are a liaison to and if possible attend one of the section meetings.

Mr. Einhorn informed the Board that a Board meeting via conference call will take place at 8:00 a.m. on December 2, 2013 to discuss pending legislation surrounding the Court of Claims legislation.

Mr. Einhorn appointed a committee, consisting of Commissioners Costello, Rombach, and Ulrich, staffed by Ms. Welch, Mr. Flood and Mr. Cunningham, to review the governing documents that affect SBM response time to legislation. Once the committee meets and develops proposed revisions to the bylaws the proposals will need to be posted on the SBM website in order to take action on January 17, 2014. The committee members are

Mr. Einhorn appointed a committee consisting of Mr. Ulrich, Mr. Rombach, Ms. Costello, Ms. Grieco, Mr. Burns and Mr. Buchanan, along with Mr. Einhorn and Ms. Welch, to review the full picture of SBM Governance including all rules, bylaws, procedures, etc.,

Mr. Rockwell asked that an email be distributed outlining the issues that the committees are dealing with so that he can then take time to look at the memo prepared by Ms. Welch and Mr. Flood and then respond directly to those members on what he thinks should be considered. The use of the portal was suggested.

Mr. Einhorn spoke about the Secretary of State's response to the to the State Bar's request for an interpretive ruling, her issuance of disclosure rules, and the legislative response to the Secretary of State's proposed rules.

Executive Director's Report, Janet K. Welch, Executive Director **Secretary of State Request Response**

Ms. Welch also commented on the response from the Secretary of State regarding the Judicial Campaign Finance Disclosure letter.

Right to Work Challenge

Ms. Welch provided the Board with information regarding the Right to Work challenge to the mandatory status of the State Bar.

July Bar Exam Results

Ms. Welch reported the results of the July Bar Examination to the Board. She reported that it is anticipated that Dean Joan Howarth from MSU Law School, will attend and speak with the Board at its January 17, 2014 meeting. Justice Brian Zahra has indicated an interest in attending and being part of that conversation.

Ms. Welch spoke about the decrease in the applicants applying for admission to law schools nationally, including in Michigan.

Michigan Legal Help Online Update

Ms. Welch told the Board that the outgoing chair of the Elder Law and Disability Rights Section had written to her, Linda Rexer, Executive Director of the Michigan State Bar Foundation, and Ms. Angela Tripp, Managing Attorney of the Michigan Poverty Law Program expressing concerns about Michigan Legal Help online. A joint response was sent to the outgoing chair thanking him for the input. She informed the Board that an article regarding Michigan Legal Help Online will be an upcoming edition of Michigan Lawyers Weekly.

Resolution Honoring Sharon Barnes on her Retirement from the State Bar of Michigan

Ms. Welch presented the Board with a resolution for their approval honoring Ms. Sharon Barnes on her retirement from the State Bar of Michigan.

A motion was offered and seconded to approve the resolution. The motion was approved.

North Carolina Bar Association Request for Amicus Brief

Ms. Evans provided the Board with an overview of a request for submission of an amicus brief that the SBM received from the North Carolina Bar Association. It is recommended that the SBM not submit an amicus brief. The Board took no action on the request.

Representative Assembly (RA) Report, Kathleen M. Allen, Chairperson

Ms. Allen introduced Ms. Williams as Vice Chair of the RA and informed the Board that Mr. Quick in the new Clerk.

Ms. Allen discussed the two awards that are presented by the RA, the Unsung Hero and the Michael Franck Awards, and asked Board members to submit names if they thought of any qualified candidates.

April 25 RA Meeting

Ms. Allen reported that progress is being made in developing the agenda for the April 25, 2014 meeting.

American Bar Association (ABA) Report

There was no report.

Young Lawyers Section Report (YLS), Hope V. Shovein, Chairperson

Ms. Shovein provided the Board with an update on the activities of the Young Lawyers Section.

Comments from Commissioners

Mr. Nolan discussed a request from Cooley Law School to the State Bar of Michigan to support its Professionalism Plan. This item will be placed on the agenda of the December 17 Executive Committee for action.

Adjournment

The meeting was adjourned at 1:00 p.m.