

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

AGENDA ITEM: March 2016 – O-103

DATE: March 14, 2016

TO: Committee of Bar Examiners

FROM: Gayle Murphy, Senior Director, Admissions

SUBJECT: **Senate Bill No. 1257 (Block) re Required Pro Bono Pre-Admission**

BACKGROUND

On February 18, 2016, Senator Block introduced a bill that if ultimately approved and signed by the Governor would add Section 6060.1.5 to the California Business and Professions Code. According to the Legislative Counsel's Digest:

Existing law, the State Bar Act, requires an applicant for admission and a license to practice law, to meet certain requirements, including, but not limited to, having completed certain legal education in a law school, law office, or judge's chambers, passed an examination in professional responsibility, and passed the general bar examination. Existing law prohibits a person from practicing law in this state unless he or she is an active member of the State Bar.

This bill would additionally require an applicant, prior to filing an application for admission and a license to practice, to complete at least 50 hours of supervised pro bono service, as specified, in order to supplement the applicant's legal education with practical legal work experience. Upon completion of the pro bono service requirement, the bill would require an applicant to complete, sign, and submit a form to the State Bar confirming completion of the pro bono service.

A copy of the bill in its entirety can be found at:
http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_1251-1300/sb_1257_bill_20160218_introduced.pdf

In accordance with Section 6046 of the California Business and Professions Code, the Committee has the power: "(a) To examine all applicants for admission to practice law. (b) To administer the requirements for admission to practice law" and "(c) To certify to the Supreme Court for admission those applicants who fulfill the requirements provided in this chapter." In accordance with its regulatory duties, it would be appropriate for the

Committee to take a position and communicate that position to the State Bar's Board of Trustees for its consideration.

DISCUSSION

The Board of Trustees appointed the Task Force on Admission Regulation Reform (TFARR) to study whether there should be additional requirements for those entering the profession of law. TFARR made several recommendations, including that there should be 50-hour pro-bono admission requirement.

In response to TFARR's recommendations, the Committee submitted the following comment regarding the pro-bono requirement:

Pro Bono

The proposal concerning required Pro-Bono (or low-Bono) service, while certainly of potential benefit, appears to create a sort of "conditional admission" – a concept the Committee has considered in some depth in the past and rejected as it relates to applicants with moral character issues.

In this case, the "conditional admission" involves the TFARR recommendation that applicants be given until the end of their first year after admission to complete the required 50 hours of Pro-Bono service. It is unclear if there are sufficient infrastructures in place to monitor the un-admitted and conditionally admitted and to provide the supervision that would be needed over law students and newly-admitted attorneys.

In addition, there are many public positions, such as in a District Attorney's office or a Public Defender's office, where having any sort of outside legal employment, including Pro-Bono service, is prohibited. As a result, many new admittees may not have the option of applying for positions within public agencies, where they most likely would receive on-the-job training, because they have to complete the Pro-Bono requirement. To the extent that the practical skills admission contemplates that a new lawyer will gain additional practical experience through participation in Pro-Bono programs, the Committee is concerned that this requirement will have the unintended requirement of a conditional admission primarily available to employees of large law firms.

It should be noted that if the requirement was strictly pre-admission, it could be handled through a certification process, similar to what is done now when the law schools certify their students as having met the legal education requirements for admission.

The State Bar's new executive management is studying the TFARR proposals and will be making further recommendations soon to the Board of Trustees regarding them. Since there has already been dialogue on this matter and the Board of Trustees has taken a position in support of a pro-bono requirement, it would be appropriate for the

Committee to remain neutral on the legislation and not recommend any particular action to the Board of Trustees.

RECOMMENDATION

It is recommended that Senate Bill No. 1257 (Block) be received and filed and no further action be taken by the Committee.

PROPOSED MOTION

If the Committee agrees with the recommendation, the following motion should be made:

Move, that Senate Bill No. 1257 (Block) regarding Pro Bono requirements for admission to the practice of law in California be received and filed and that no further action be taken by the Committee at this time.