

LEGISLATION

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The State Bar of California
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1. Sponsoring Legislation

State Bar Sections may develop legislative proposals in their areas of subject matter expertise and, with the approval of the Board of Trustees, can pursue enactment of those legislative proposals in the name of the section.

The legislative proposals developed by various sections and committees of the State Bar for 2016 can be found at:

<http://www.calbar.ca.gov/AboutUs/Legislation/LegislativeChairInformation/2016LegislativeProposals.aspx>

For a proposal to be added to the Section Legislative Program, it must first be approved by the Section's Executive Committee. August 1 is the deadline for submitting Section legislative proposals, as approved by the Section's Executive Committee, to the Office of Governmental Affairs.¹ They are then circulated as a package to all other State Bar sections and committees and certain outside entities.² The proposals must then be considered and approved by the Board of Trustees before moving forward. Board consideration usually occurs at the Board's November meeting.

2. Commenting/Taking Positions on Legislation (or Rules or Regulations) Sponsored by Others

Section Executive Committees may take positions in their own name (or authorize positions by their standing committees or subcommittees) on pending legislation, rules, or agency regulations that are germane to their areas of practice expertise. They may also provide technical comments and background analysis on such legislation, rules or regulations (either at the request of legislative or agency staff, or on their own initiative).

ALL proposed positions and comments must be sent to the State Bar's Office of Governmental Affairs (OGA), the State Bar's Office of General Counsel (OGC),

¹ A section may submit a legislative proposal for potential sponsorship at any time during the course of the year. However, only those proposals that are submitted by the August 1 deadline and circulated as part of the annual package of proposals for introduction as section-sponsored legislation in the following year receive the benefit of consideration by the Board of Trustees in November, and therefore are reasonably assured (assuming approval by the Board of Trustees) of being included as part of the Section Legislative Program. Except in extraordinary instances, proposals submitted at any other time are subject to consideration at a later Board of Trustees meeting, generally the following November.

² The outside entities include the Bench Bar Coalition, the Conference of California Bar Associations, key legislative staff, and key staff at the Judicial Council.

and the Chair of the designated Committee of the Board of Trustees, and must be approved before they can be conveyed to the Legislature, department, federal agency, or (on rare occasions) Congress. The approval process involves several components, including the proposed position itself, the substance of the proposed comments, and the manner in which any comments may be conveyed.

Possible positions include support for a bill or a specified provision of a bill (which often does not require additional Section involvement beyond transmittal of a support letter), support if amended, oppose unless amended, and opposition to a bill. Positions other than a statement of support may involve as much work (including testimony before legislative committees) and negotiation over amendments as actually sponsoring legislation.

Technical comments, e.g., those offered to eliminate ambiguities, resolve inconsistencies, or address workability, can be more effective and more favorably received than positions on bills.

Proposed positions or comments on state or federal legislation, rules, or regulations must be sent to Saul Bercovitch, State Bar Legislative Counsel (Saul.Bercovitch@calbar.ca.gov), for the approval process.

The procedure for approving positions or comments applies to ALL proposed comments and positions, including those on state or federal legislation, state or federal rules, and state or federal agency regulatory proposals.

In rare instances, where legislation directly impacts the State Bar, issues of attorney ethics and conduct, or issues impacting access to legal services for the people of California, Sections may propose that the Board of Trustees consider taking a position on a particular bill.

3. Identifying and Tracking Legislation

To assist Sections in identifying and monitoring the progress of legislation of interest, the Office of Governmental Affairs provides a number of services, resources, and suggestions:

a). Section Bill Tracking Page (w/Folders for Each Section)

The Office of Governmental Affairs maintains a bill tracking page, which includes folders of bills that have been identified as being of potential interest to each of the Sections. The folders can be found on the State Bar website, at:

<http://www.calbar.ca.gov/AboutUs/Legislation/SearchforLegislation/BillTrackingSectionsandCommittees.aspx>

The accuracy and value of these folders depends entirely on how the legislative contacts of the various Section Executive Committees, etc., work with the Office of Governmental Affairs in the process of identifying bills of potential interest. Bills placed in the folders are updated

automatically to reflect changes in the bills and their status in the Legislature.

b). Tracking Bills Once Identified

Bills can be tracked by going to <http://leginfo.legislature.ca.gov/>

To track legislation once identified, type in the bill number and search for the bill. When the bill is located, click on “Track Bill” at the top of the page. If you are a new user, you will need to register.

4. Responding to State Bar Referrals

During the course of the year, many State Bar referrals are made to sections for comment. Saul Bercovitch (Saul.Bercovitch@calbar.ca.gov) oversees this referral process.

The source of most of these referrals is the Judicial Council, which frequently requests comments on proposals it is considering. These typically pertain to rules of court, forms or Standards of Judicial Administration proposed by a Judicial Council Advisory Committee or suggested to the Judicial Council (for example, by courts, individual judges, attorneys, a State Bar entity, or others). Since these are usually posted on the Judicial Council website, referrals usually take the form of an email message with directions where the proposal can be found on-line. Other sources of referrals include the Conference of California Bar Associations (CCBA), the California Law Revision Commission (CLRC), and other governmental and private entities.

Proposed reports on these requests for comment must be sent to Saul Bercovitch (Saul.Bercovitch@calbar.ca.gov), preferably by email, for the approval process. Most rule proposals raise technical issues of interest to the legal profession. Because the Judicial Council and other entities are interested in receiving comments concerning how proposed rules may affect practitioners and their clients, technical comments and suggestions for improving proposed rules are encouraged.