

## Memorandum 99-14

**Trial Court Unification: Law Library Board in Unified Court**

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Business and Professions Code Section 6301 governs the composition of a board of law library trustees. In its report on trial court unification, the Commission recommended an amendment of this provision, which Senator Lockyer incorporated into his 1998 bill implementing trial court unification (SB 2139). While the bill was pending, the Council of California County Law Librarians pointed out that the proposed amendment would reduce the total number of trustees from seven to six in a county that had three or more municipal courts before unification. To preclude that result, the Council requested certain revisions, which Senator Lockyer made to facilitate enactment of his bill.

As amended, however, Section 6301(b) limits the number of judge trustees in a county with a unified superior court to “the number of judge trustees authorized as of January 1, 1998.” In the long term, this reliance on the size of the board as of January 1, 1998, may become cumbersome and inappropriate, because it will be increasingly difficult to determine “the number of judge trustees authorized as of January 1, 1998.”

The staff raised this problem with the Council of California County Law Librarians several months ago. After much discussion, the Council suggested amending the provision to not only eliminate the reference to January 1, 1998, but also simplify the statute in other respects. (Exhibit p. 1.) A draft of a tentative recommendation along the lines suggested by the Council is attached. Although the Council has not yet approved the precise language in the draft, **the staff recommends that the Commission approve this draft for circulation for comment.**

Respectfully submitted,

Barbara S. Gaal  
Staff Counsel

**TONY NEVAREZ**  
 Attorney at Law  
 Legislative Representative

Law Revision Commission

RECEIVED

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June 21, 1998

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Ms. Barbara Gaal  
 California Law Revision Commission  
 4000 Middlefield Road, Room D-1  
 Palo Alto, CA 94303

VIA TELECOPY  
 (650) 494-1827

**RE: PROPOSED AMENDMENTS TO B&P §6301, et seq  
 RELATING TO LAW LIBRARY BOARD COMPOSITION**

Dear Ms. Gall:

As discussed by telephone this morning, the following are my thoughts on the Law Revision Commission recommendations regarding the composition of the Board of Law Library Trustees.

Initially, I reiterate the sentiments of the Law Librarians who comprise the Council of California County Law Librarians, who have indicated to me that most boards will be comfortable with a 7-member board. In order to accomplish this, the following suggestions are made:

1. Section 6301 (a) and (b) can be consolidated to provide for five TRIAL COURT Judge trustees, or their designees;
2. Section 6301(c) can remain as is and to include the provision for appointment of a designee by the county representative;
3. Section 6301(d) can remain as is to provide for additional attorney members, to make a 7-member board.

Additionally, Sections 6301.1 (San Diego) to remain as is, and section 6301.5 to remain as is to provide for the smaller counties.

Finally, I enclose for your perusal the City and County of San Francisco charter provision governing the San Francisco Law Library, which appears to provide for a 12-member board.

Please review and contact me with further comments or to review proposed language.

Sincerely,

  
 TONY NEVAREZ

c: CCCLL Legislation Committee

# CALIFORNIA LAW REVISION COMMISSION

Staff Draft

TENTATIVE RECOMMENDATION

Law Library Board of Trustees

June 1999

This tentative recommendation is being distributed so that interested persons will be advised of the Commission's tentative conclusions and can make their views known to the Commission. Any comments sent to the Commission will be a part of the public record and will be considered at a public meeting when the Commission determines the provisions it will include in legislation the Commission plans to recommend to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made in the tentative recommendation.

**COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN August 31, 1999.**

The Commission often substantially revises tentative recommendations as a result of the comments it receives. Hence, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

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1                                           LAW LIBRARY BOARD OF TRUSTEES

2       Each county in the state is to have a law library governed by a board of trustees.<sup>1</sup>  
3 Business and Professions Code Section 6301 establishes complicated criteria for  
4 selection of the board.<sup>2</sup> As set forth in the proposed legislation, the Law Revision  
5 Commission recommends amendment of this provision for purposes of  
6 simplification.<sup>3</sup>

7       This recommendation was prepared pursuant to Resolution Chapter 91 of the  
8 Statutes of 1998 and Government Code Section 70219.

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1. Bus. & Prof. Code § 6300. Unless otherwise indicated, all further statutory references are to the Business and Professions Code.

2. For a special provision governing the composition of the law library board in San Diego County, see Section 6301.1. For a provision authorizing a board of less than six members in a county in which there is no county bar association, see Section 6301.5. For a provision grandfathering pre-1941 legislation establishing a law library and board of law library trustees in a county, see Section 6363. See also Section 6364 (“It is discretionary with the board of supervisors of any county to provide by ordinance for the application of the provisions of this chapter to the county.”).

3. The proposed amendment would also promote flexibility by allowing either a six-member or a seven-member board. In contrast, existing law requires a six-member board in some counties and a seven-member board in other counties. See Section 6301(d). As opposed to a six-member board, a seven-member board helps to prevent deadlock and makes it easier to obtain a quorum.

PROPOSED LEGISLATION

1 **Bus. & Prof. Code § 6301 (amended). Board of law library trustees**

2 SECTION 1. \_\_\_\_\_. Section 6301 of the Business and Professions Code is  
3 amended to read:

4 6301. A board of law library trustees is constituted as follows:

5 (a) ~~In a county where there are no more than three judges of the superior court,~~  
6 ~~each of the judges is ex officio a trustee; in a county where there are more than~~  
7 ~~three judges of the superior court, the judges of the court shall elect three of their~~  
8 ~~number to serve as trustees. However, where there are no more than three judges~~  
9 ~~of the superior court, the judges may at their option select only one of their number~~  
10 ~~to serve as a trustee, and in that event they shall appoint two additional trustees~~  
11 ~~who are members of the bar of the county.~~

12 ~~Any judge who is an ex officio or elected member may at the judge's option~~  
13 ~~designate a member of the bar of the county to act for the judge as trustee.~~

14 (b) ~~In a county with one or two municipal courts the judges of the court or courts~~  
15 ~~shall elect one of their number to serve as trustee. In a county with three or more~~  
16 ~~municipal courts the judges of the courts may elect two of their number to serve as~~  
17 ~~trustees. In a county in which there is no municipal court, the judges of the~~  
18 ~~superior court may elect one or more of their number to serve as trustee, in~~  
19 ~~addition to the trustees elected pursuant to subdivision (a), so that the number of~~  
20 ~~judges elected shall not exceed the number of judge trustees authorized as of~~  
21 ~~January 1, 1998. Any judge who is an elected member may at the judge's option~~  
22 ~~designate a member of the bar of the county to act for the judge as trustee Five or~~  
23 ~~fewer trustees selected by the trial court judges of the county. Each of these~~  
24 ~~trustees shall be a trial court judge of the county or a member of the bar of the~~  
25 ~~county. Any trial court judge selected to serve as a trustee may, at the judge's~~  
26 ~~option, designate a member of the bar of the county to act for the judge as trustee.~~

27 (e) ~~(b)~~ The chair of the board of supervisors is ex officio a trustee, but the board  
28 of supervisors at the request of the chair may appoint a member of the bar of the  
29 county or any other member of the board of supervisors of the county to serve as  
30 trustee in place of said the chair. The appointment of the person selected in lieu  
31 place of the chair of the board of supervisors shall expire when a new chair of the  
32 board of supervisors is selected, and the appointment shall not be subject to the  
33 provisions of Section 6302.

34 ~~(d)~~ ~~(c)~~ The board of supervisors shall appoint as many additional trustees, who  
35 are members of the bar of the county, as may be necessary to constitute a board of  
36 ~~six members in any county where one member is elected pursuant to subdivision~~  
37 ~~(b), or of seven members in any county where two members are elected to serve as~~  
38 ~~trustees pursuant to subdivision (b) at least six and not more than seven members.~~

39 **Comment.** Section 6301 is amended for purposes of simplification and flexibility. For a special  
40 provision governing the composition of the law library board in San Diego County, see Section

1 6301.1. For a provision authorizing a board of less than six members in a county in which there is  
2 no county bar association, see Section 6301.5. For a provision grandfathering pre-1941 legislation  
3 establishing a law library and board of law library trustees in a county, see Section 6363. See also  
4 Section 6364 (discretion of board of supervisors in applying chapter).

5 **Bus. & Prof. Code § 6301.5 (amended). Law library board where there are insufficient**  
6 **eligible candidates**

7 SEC. \_\_\_\_\_. Section 6301.5 of the Business and Professions Code is amended, to  
8 read:

9 6301.5. In any county in which there is no county bar association, if the board of  
10 supervisors determines that there is not a sufficient number of members of the  
11 State Bar residing, and with their principal places of office for the practice of law,  
12 in the county eligible for appointment to the board of library trustees by the board  
13 of supervisors pursuant to ~~subdivision (d)~~ of Section 6301 for the constitution of a  
14 six-member or seven-member board of library trustees, the board of library  
15 trustees may consist of not less than three members.

16 **Comment.** Section 6301.5 is amended to conform the cross-reference to Section 6301, which  
17 no longer contains a subdivision (d).