

Memorandum 2000-30**Law Library Board of Trustees:
Comments on Tentative Recommendation**

In January, the Commission issued a tentative recommendation on *Law Library Board of Trustees* (enclosed with Commissioners' copies of this memorandum). The tentative recommendation proposes to revise the statute governing the composition of a law library board. (Bus. & Prof. Code § 6301 (all further statutory references are to the Business and Professions Code).) This memorandum discusses the input on the proposal.

RECAP OF THE PROPOSAL

As a general rule, the law library board in a county with a unified superior court consists of the chair of the board of supervisors, a member of the bar of the county appointed by the board of supervisors, and either four or five superior court judges, depending on the number of judge trustees authorized as of January 1, 1998. (Section 6301.) The tentative recommendation proposes to permit the judges of a unified superior court to select either four or five judge trustees at their discretion, without regard to how many judge trustees were authorized as of January 1, 1998. The proposed legislation would also allow each county to have either a six- or a seven-member board, as best meets the needs of the county.

CCCLL'S POSITION ON THE TENTATIVE RECOMMENDATION

The Council of California County Law Librarians (CCCLL) is a statewide coordinating body comprised of representative librarians from the 58 county law libraries. The Commission worked with CCCLL in developing the tentative recommendation. CCCLL has not submitted written comments on the tentative recommendation, but has notified Commission staff by phone that the tentative recommendation is acceptable to it.

JUDGE KOPP'S SUGGESTION

The only written input that the Commission received concerns a suggestion advanced by Judge Quentin Kopp (formerly a state senator and a member of the Commission), who sits on the San Mateo County Superior Court and serves on the board of the San Mateo County Law Library. His idea is described in a letter from the Director of the San Mateo County Law Library to the President of CCCLL, which Judge Kopp forwarded to the Commission for consideration. (Exhibit p. 1.)

To enhance public awareness of county law libraries, Judge Kopp proposes to add a member of the public to each law library board, "either by increasing the number of Trustees appointed to serve or amending the current statute to eliminate one judicial or one legal professional membership, and give the local board of supervisors the authority to appoint an individual from the lay community." (*Id.*) This would permit the general public to "participate in a system and process that clearly involves them, yet from a governing perspective traditionally has excluded them in matters of policy and promulgation." (*Id.*) Because law libraries "have long had great difficulty" substantiating their lay users to local governing authority, such a change in the composition of the board "may provide a direct link between county law libraries and the general public." (*Id.*) "Furthermore, a lay member of a county law library board would be directly accountable to the local board of supervisors and the public voice that has been missing in ... dialogue with those boards." (*Id.*)

CCCLL'S POSITION ON JUDGE KOPP'S SUGGESTION

Judge Kopp's proposal is being considered by CCCLL. According to CCCLL lobbyist Tony Nevarez, however, CCCLL is not likely to reach consensus on the proposal before its fall meeting, if at all.

OPTIONS

The Commission could proceed in a number of different ways:

- (1) *Approve the tentative recommendation as its final recommendation and seek enactment this year if a bill is available. The tentative recommendation appears to be unobjectionable. It would delete the awkward historical benchmark (January 1, 1998) from Section 6301*

and increase flexibility as to the size of a law library board. It might still be possible to find a vehicle for enactment of these minor reforms this year. Although the proposal does not incorporate the additional reform that Judge Kopp recommends (adding a public member to the board), that could be the subject of separate legislation at a later time.

(2) *Assess the merits of Judge Kopp's suggestion and revise the Commission's proposal accordingly. Instead of finalizing a recommendation now, the Commission could consider the pros and cons of adding a public member, and then revise its proposal if necessary. If preliminary study suggests that a public member should be added to law library boards, it would be advisable to circulate a revised proposal before finalizing a recommendation. Under this approach, the Commission probably would not be able to finalize a recommendation until fall 2000 (or perhaps later, if the Commission decides to wait for the results of CCCLL's fall meeting).*

(3) *Approve the tentative recommendation as its final recommendation, seek enactment this year if a bill is available, and begin to study Judge Kopp's suggestion. A third alternative would be to finalize and proceed with the current proposal, but also begin studying the merits of adding a public member to law library boards. Although the Commission is not authorized to study law library boards in so many words, it does have broad authority to study trial court unification. As a result of unification, most law library boards are heavily dominated by superior court judges. It would be appropriate for the Commission to examine whether to broaden the composition of the boards.*

RECOMMENDATION

The reforms in the tentative recommendation are not urgent. It may still be possible to incorporate them into a bill this year, but it might not be worth the effort. If the municipal and superior courts in all counties unify, as may occur in the near future, the Commission will have to revisit Section 6301 to delete the references to municipal courts. Rather than revising the provision twice, it may be preferable to address all of the issues at once, including the possibility of adding a public member. On the other hand, statewide unification may never occur and interested parties may never reach consensus on adding a public member. The staff does not have a strong view on how to proceed, so long as the concept of adding a public member to law library boards receives serious

consideration, either by the Commission or by another suitable organization. We understand that a representative of the San Mateo County Law Library will be attending the Commission's meeting. Perhaps further input from that organization or other sources will shed light on the appropriate course of action.

Respectfully submitted,

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December 10, 1999

Charles R. Dyer, Director of Libraries
and President, Council of California County Law Librarians
San Diego County Public Law Library
1105 Front Street
San Diego, CA 92101-3999

Dear Charley,

At their December 9, 1999 meeting, the San Mateo County Board of Law Library Trustees discussed ways to enhance awareness of the San Mateo County Law Library within the general public. The Trustees broadened the discussion to means that could benefit all county law libraries. One suggestion made by Trustee-The Hon. Quentin Kopp has great merit and I have been asked to propose it to you and the Council of California County Law Libraries for consideration for future legislation. Judge Kopp spoke to the possibility of adding a member of the public to county law library boards either by increasing the number of Trustees appointed to serve or amending the current statute to eliminate one judicial or one legal professional membership, and give the local board of supervisors the authority to appoint an individual from the lay community. He noted that many governing bodies have added public members to their boards in recent years, including The State Bar of California and The Judicial Council. The change has been beneficial for the governing bodies, the profession served and the public. It also gives the general public the opportunity to participate in a system and process that clearly involves them, yet from a governing perspective traditionally has excluded them in matters of policy and promulgation. In as much as county law libraries have long had great difficulty substantiating our lay users to local governing authority, such a change in the make-up of our governing boards may provide a direct link between county law libraries and the general public. Furthermore, a lay member of a county law library board would be directly accountable to the local board of supervisors and the public voice that has been missing in our dialogue with those boards.

County law library board of trustees have been empowered to govern and maintain a public trust. It may be time that the public be a part of that governance. I pass this idea on to you for consideration and discussion with the membership of CCCLL and lobbyist Tony Nevarez.

Please feel free to call me if you have any further questions.

Sincerely,



Karen M. Lutke,
Director, San Mateo County Law Library, and
Secretary, Board of Law Library Trustees

CC: The Hon. Quentin L. Kopp, Superior Court of California, County of San Mateo
/Board of Law Library Trustees, County of San Mateo