

First Supplement to Memorandum 2001-21

Law Library Board of Trustees
(Comments on Revised Staff Draft Recommendation)

The Commission has received the following new comments on its proposal on Law Library Board of Trustees.

Table with 2 columns: Comment number and name, and Exhibit page number. Includes Sharon E. Borbon and Karen M. Lutke.

The staff also has a few minor suggestions regarding the proposal.

SUPPORT

The San Mateo County Law Library supports the current draft of the proposal. (Exhibit p. 2.) Director Karen Lutke expresses her belief that the legislation will promote flexibility and local autonomy in selection of law library boards and "will permit and promote board composition that is reflective of the actual users of a county law library." (Id.)

SELECTION BY THE JUDGES COLLECTIVELY OR BY AN INDIVIDUAL JUDGE

The Fresno County Law Library Board opposes proposed Section 6301(a)(3), which provides that "[a]ny judge of the superior court who is an ex officio or elected member may at the judge's option designate a resident of the county or a member of the State Bar to act for the judge as trustee." (Exhibit p. 1.) Director Sharon Borbon comments:

A judge is elected to serve as trustee by the judges of the superior court of that county. The position does not belong to the individual judge who is elected. In the event the judge decides not to accept and serve as elected then the selection of the alternate or replacement should return to the judges of the county as the electing body.

(Id.)

In this regard, however, the proposal merely tracks existing law. Business and Professions Code Section 6301(a) already states that “[a]ny judge who is an ex officio or elected member may at *the judge’s* option designate a member of the bar of the county to act for the judge as trustee.” (Emphasis added.) Moreover, a judge exercising this option is likely to select a capable replacement, because the designee’s performance will reflect on the judge. Thus, **the staff recommends leaving proposed Section 6301(a)(3) as is.**

#### LIMIT ON NUMBER OF LAYPERSONS

Proposed Section 6301(b) would limit the number of laypersons serving on a law library board:

(b) No more than two (2) law library trustees may be residents of the county who are not judges of the county or members of the State Bar.

To properly achieve its purpose, however, **the provision should be revised to read:**

(b) No more than two (2) law library trustees may be residents of the county who are not judges of the ~~county~~ or county, members of the State Bar, or members of the board of supervisors.

Otherwise, a layperson may be precluded from serving on the board simply because two nonattorney members of the board of supervisors are already serving. Such a result would be inconsistent with the proposal’s goal of promoting diversification of the board.

#### MINOR NONSUBSTANTIVE CORRECTIONS

The staff has discovered a number of typographical errors and other minor flaws in the draft. In particular, part of the second sentence of the “Summary of Recommendation” is jumbled. The sentence should be revised to read: “To promote flexibility, improve clarity, and build relations between law libraries and the general public, the Law Revision Commission proposes ....” The staff will implement this correction and a few other minor, nonsubstantive revisions in the final draft.

Respectfully submitted,

Barbara S. Gaal  
Staff Counsel

**FRANK J. CREEDE, JR. PUBLIC LAW LIBRARY**

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Sharon E. Borbon  
Library Director

Board of Trustees:  
Hon. Ralph Nunez, President  
Hon. Carlos A. Cabrera  
Hon. Stephen J. Kane  
Hon. James M. Petrucelli  
Hon. Edward Sarkisian, Jr.  
Judy Case, Supervisor  
Katherine Hart, Esq.

December 22, 2000

Law Revision Commission  
RECEIVED

California Law Revision Commission  
4000 Middlefield Road, Room D-1  
Palo Alto, California 94303-4739

JAN 02 2001

File: J1307

Re: Law Revision Commission Study on Board of  
Law Library Trustees

Dear Commissioners,

The Fresno County Law Library Board of Trustees has continued the debate on recommended changes to California Business & Professions Code Section 6301. Although it is agreed the law library can benefit from the added perspective of a public member we wish to again state our opposition to the provision allowing a judicial appointment to select a resident of the county or a member of the bar of the county to act for the judge as trustee (§6301(a)(3)).

A judge is elected to serve as trustee by the judges of the superior court of that county. The position does not belong to the individual judge who is elected. In the event the judge decides not to accept and serve as elected then the selection of the alternate or replacement should return to the judges of the county as the electing body.

Fresno's position is not in opposition of having two members of the public appointed to the board but the manner in which that would be accomplished under the Commission's recommendation. Therefore, the Fresno County Law Library Board of Trustees respectfully requests these comments receive consideration by the Commission.

Sincerely,



Sharon E. Borbon  
Law Library Director

cc: Hon. Ralph Nunez

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January 2, 2001

Law Revision Commission  
RECEIVED

JAN 03 2001

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4000 Middlefield Road, Room D-1  
Palo Alto, CA 94303-4739

File: J-1307

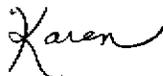
RE: Law Library Board of Trustees (Revised Staff Draft Recommendation)  
Study J-1307 (December 2000)

Dear Barbara,

On behalf of the Board of Law Library Trustees, San Mateo County, I send this letter in support of the revisions detailed in Law Library Board of Trustees Memorandum 2001-21. As stated in your December 22, 2000 cover letter, the "... revisions are intended to promote flexibility and local autonomy in selection of law library boards." I believe the recommendations of the Commission and staff revision language do just that and will permit and promote board composition that is reflective of the actual users of a county law library.

On behalf of the Board of Law Library Trustees, I respectfully ask that our support of proposed legislation of Business and Professions Sections 6301 and 6301.5, as amended, be recorded into the record and that the Commission pursue enactment of its Tentative Recommendation.

Sincerely yours,



Karen M. Lutke,  
Director

CC : Board of Law Library Trustees, San Mateo County  
Annette Heath, Kern County Law Library, and President CCCLL