

CALIFORNIA LAW REVISION COMMISSION

TENTATIVE RECOMMENDATION

Law Library Board of Trustees

January 2000

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 **March 15, 2000.**

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.

California Law Revision Commission
4000 Middlefield Road, Room D-1
Palo Alto, CA 94303-4739
650-494-1335 FAX: 650-494-1827

LAW LIBRARY BOARD OF TRUSTEES

1 Each county in the state is to have a law library governed by a board of trustees.¹
2 Business and Professions Code Section 6301 establishes complicated criteria for
3 selection of the board.² In a county with a unified superior court, the board
4 includes either four or five superior court judges,³ depending on the number of
5 judge trustees authorized as of January 1, 1998.⁴ The board also includes the chair
6 of the board of supervisors⁵ and a member of the bar of the county appointed by
7 the board of supervisors.⁶

8 As January 1, 1998, becomes more distant, reliance on this historical reference
9 point to establish the number of judge trustees (and thus the size of the board) may
10 become inappropriate. The Law Revision Commission recommends amendment of
11 the statute to permit the judges of a unified superior court to select either four or
12 five judge trustees at their discretion, without regard to how many judge trustees
13 were authorized as of January 1, 1998.⁷ The proposed legislation would also allow
14 each county to have either a six- or a seven-member board, as best meets the needs
15 of the county.⁸

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

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. Any judge who is a member of the board may, at the judge’s option, designate a member of the bar of the county to act for the judge as trustee. Section 6301(a)-(b). In a county with no more than three superior court judges, the judges may at their option appoint two members of the bar of the county to serve on the board. Section 6301(a).

4. Section 6301(a)-(b). Three superior court judges (or one superior court judge and two members of the bar of the county appointed by the superior court judges) are to be selected pursuant to Section 6301(a). One or two additional superior court judges may be selected pursuant to Section 6301(b), “so that the number of judges elected shall not exceed the number of judge trustees authorized as of January 1, 1998.”

5. Section 6301(c). At the request of the chair, the board of supervisors may appoint another supervisor or a member of the bar of county to serve as trustee in place of the chair. *Id.*

6. Section 6301(d).

7. Under the proposed amendment, three judges would be chosen pursuant to Section 6301(a) and either one or two judges would be selected pursuant to Section 6301(b), at the discretion of the superior court judges.

8. In contrast, existing law requires a six-member board in some counties and a seven-member board in other counties. See Section 6301(d); but see *supra* note 2 (special provisions governing size of board in some counties). As opposed to a six-member board, a seven-member board helps to prevent deadlock and makes it easier to obtain a quorum (if a board has six members, only two can be absent for the board to transact business; if the board has seven members, a quorum is present even if three members are absent).

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 amended to
3 read:

4 6301. A Except as otherwise provided by statute, a board of law library trustees
5 is constituted as follows:

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

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

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

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

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

36 **Comment.** Subdivision (b) of Section 6301 is amended to permit the judges of a unified
37 superior court to select either four or five judge trustees at their discretion (three pursuant to
38 subdivision (a) and either one or two pursuant to subdivision (b)), without regard to how many
39 judge trustees were authorized as of January 1, 1998. Subdivision (d) is amended to permit
40 flexibility in the size of a law library board.

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

7 Section 6301 is also amended to make technical changes.
