

CALIFORNIA LAW REVISION COMMISSION

REVISED TENTATIVE RECOMMENDATION

Law Library Board of Trustees

April 2000

This revised 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 revised tentative recommendation as it is to advise the Commission that you believe revisions should be made in it.

COMMENTS ON THIS REVISED TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN September 30, 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 elaborate criteria for
3 selection of the board.² To promote flexibility and build relations between law
4 libraries and the general public, the Law Revision Commission recommends
5 revision of these criteria.³

Existing Law

6 In a county with a unified superior court,⁴ the law library board of trustees
7 includes either four or five superior court judges,⁵ depending on the number of
8 judge trustees authorized as of January 1, 1998.⁶ A member of the bar of the
9 county may serve in place of a judge trustee.⁷ The board also includes the chair of
10 the board of supervisors⁸ and a member of the bar of the county appointed by the
11 board of supervisors.⁹ At the chair's request, the board of supervisors may appoint
12 another supervisor or a member of the bar of the county to serve in place of the
13 chair.¹⁰ The board does not include any members of the general public.

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

4. Where the municipal and superior courts are not unified, the law library board consists of three superior court judges and either one or two municipal court judges, depending on the number of municipal courts in the county. Section 6301(a)-(b).

5. 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.

6. 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."

7. 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).

8. Section 6301(c).

9. Section 6301(d).

10. Section 6301(c).

Diversity of the Board

1 Including a member of the general public on a law library board may yield
2 several benefits. It may broaden the board's perspective, helping to ensure that the
3 law library effectively serves the public. It may also increase public awareness of
4 the law library, the services that it provides, and the support that it needs. In
5 particular, a lay member may help the library supplement existing funding, as by
6 encouraging private donations or county assistance.¹¹

7 The proposed law would not require each law library board to include a member
8 of the general public. Instead, it would broaden the range of persons who could
9 serve in place of a judge. Any resident of the county or member of the bar of the
10 county could be chosen. Similarly, any resident of the county could be appointed
11 to serve in place of the chair of the board of supervisors, not just another
12 supervisor or a member of the bar. By permitting flexibility in the composition of
13 a law library board, the proposed law would allow each county to structure its
14 board according to its needs.

Use of Historical Reference Point

15 As January 1, 1998, becomes more distant, it may become inappropriate to rely
16 on this historical reference point to establish the number of judge trustees (and
17 thus the size of the board) in a county with a unified superior court. The Law
18 Revision Commission proposes to amend Section 6301 to permit the judges of a
19 unified superior court to select either four or five judge trustees at their discretion,
20 without regard to how many judge trustees were authorized as of January 1,
21 1998.¹²

Size of the Board of Trustees

22 Existing law requires a six-member board in some counties and a seven-member
23 board in other counties.¹³ As opposed to a six-member board, a seven-member
24 board helps to prevent deadlock and makes it easier to obtain a quorum.¹⁴ To
25 make these benefits widely available, the proposed legislation would allow each
26 county to have either a six- or a seven-member board, as best meets the needs of
27 the county.

11. As compared to lay trustees, judge trustees may be less effective at fund-raising, because they are subject to ethical restrictions. See, e.g., Cal. Code of Judicial Ethics, Canon 4C(3)(d).

12. 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.

13. See Section 6301(d); but see *supra* note 2 (special provisions governing size of board in some counties).

14. 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 residents of the county or members of the bar of the
13 county.

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

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

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

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

1 **Comment.** Subdivisions (a) and (b) of Section 6301 are amended to permit a resident of the
2 county to serve on the law library board in place of a judge. Subdivision (b) is also amended to
3 permit the judges of a unified superior court to select either four or five judge trustees at their
4 discretion (three pursuant to subdivision (a) and either one or two pursuant to subdivision (b)),
5 without regard to how many judge trustees were authorized as of January 1, 1998.

6 Subdivision (c) is amended to permit a resident of the county to serve on the law library board
7 in place of the chair of the board of supervisors.

8 Subdivision (d) is amended to permit flexibility in the size of a law library board.

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

15 Section 6301 is also amended to make technical changes.
