

suggested Washington make in order to be consistent with the ABA Model Rules. She referred the Board to the information contained in the meeting materials and reviewed the proposed amendments.

CONTINUED DISCUSSION OF WSBA GOVERNANCE STRUCTURE – Vern Harkins, BOG Governance Work Group Chair

Chair Harkins explained that the discussion at this meeting is a follow-up of the conversation begun at the Board's November 14, 2015, meeting dealing with Section 6 of the Governance Task Force Report, Organization and Selection of the Board of Governors: Issues and Recommendations. He referred the Board to the information contained in the meeting materials, reviewed the areas of concern iterated in the Task Force Report, and advised that the Task Force recommendations would be addressed one by one.

Increase Governor Terms to four years and permit former Governors to serve a second term at a later date. Chair Harkins reviewed the discussion and concerns from the previous Board meeting. Discussion ensued regarding increasing the terms to four years with a concomitant decrease in workload; retaining three-year terms in order to give more members an opportunity to serve on the Board; incorporating additional training preceding service on the Board; beginning ex-officio terms upon election rather than imposing mandatory attendance; allowing a second 3-year term either consecutively or non-consecutively; and extending the period for retiring Governors by 6 months in order to mentor incoming Board members. It was suggested the term be 3-1/2 years, with the first six months non-voting. President Gipe noted that it seemed to be the consensus of the Board that there is strong support for a second term, but no agreement on whether it should be consecutive or nonconsecutive, and no support for keeping the current term limits or following the Task Force recommendation to increase the term to four years. It was suggested that the term be 3-1/2 years, with a non-voting status the first six months. A straw poll passed on whether there should be a second term 8-6. A straw poll tied on whether the second term should be consecutive 7-7. Governor Gipe noted that this item will require further debate and discussion.

The WSBA President should be selected from the Board of Governors and continue to serve as a voting member of the Board. Chair Harkins noted that the Work Group felt there was a consensus at the previous Board meeting that there was no support for this Task Force recommendation. Discussion ensued regarding increased continuity if the President comes from the Board; non-Board Presidents not being a problem in the past; and more opportunities for new ideas with non-Board Presidents. It was suggested that instead of requiring service on the Board of Governors, require significant involvement with WSBA. President Gipe noted that it is the consensus of the Board that the proposed response iterated in the meeting materials is the will of the Board.

Non-attorney membership, and selection. Chair Harkins urged the Board to consider what the best Board would look like rather than focusing on how many members should make up the Board when considering whether to add Limited Legal License Technician (LLLT)/Limited Practice Officer (LPO) members and public members to the Board. In response to an inquiry, General Counsel McElroy confirmed that the State Bar Act currently limits the size of the Board, but that it was the consensus of the Board at a previous Board meeting that it would not be held bound by that number in considering the recommendations of the Task Force. Discussion ensued regarding whether it would be necessary to add LLLT/LPO members to the Board since the Board has existed many years without them and rarely addresses matters that would affect them; the importance of adding LLLT/LPO members to the Board since WSBA regulates them; the added value of having public members on the Board in order to experience the valuable asset of different perspectives; board best practices currently including public members; and objections regarding public Board members having voting power over a self-regulated legal community. Executive Director Littlewood clarified that regulatory decisions are made by the Disciplinary Board and the Character and Fitness Board, both of which contain public members, and that other mandatory Bars include public members on other Board of Governors as well. President Gipe noted that WSBA is the only regulatory body in the state of Washington that does not have public members on its Board. In addition, he stated that public members can be exceptionally knowledgeable in governance matters and to say that they could not keep up with the Board's discussions is somewhat elitist. It was noted that the Access to Justice Board includes two public members on its board and that it has been helpful to have representatives

from the community, but urged the Board to have at least two public members, not just one, so they can be support for each other. A straw poll tied 7-7 regarding whether members of the public should sit on the Board. A straw poll passed 8-6 regarding whether an LLLT/LPO should sit on the Board. President Gipe noted that there was not a clear consensus on either issue.

Discussion then ensued regarding how the two public and one LLLT/LPO members would be appointed and a suggestion was made to use the existing Nomination Review Committee to address this component rather than instituting new options. President Gipe noted that it was the consensus of the Board that the Nomination Review Committee is the correct process for vetting two public members and one LLLT/LPO member should those seats be added to the Board.

Composition of the Board. President Gipe noted that it is the consensus of the Board, except for one dissent, to keep the current membership and composition as it is, and leave it up to the Supreme Court to decide how to add additional members.

Recruitment for the Board. Chair Harkins opined that the Governors could use some assistance with attempting to find qualified candidates to fill their seats upon retiring. Discussion ensued regarding the benefits of a Search Committee, especially for Governors At-Large, and the composition of such a Search Committee. President Gipe noted that it is the consensus of the Board that having organized search and recruitment efforts is a recommendation the Board can approve.

Executive Committee. In response to Chair Harkins' inquiry, it was the consensus of the Board that an Executive Committee would be an effective addition if appropriately formed. Discussion ensued regarding the makeup of the Executive Committee and the parameters of its authority. A suggestion was made to include on the Executive Committee the Board's Officers, the Personnel Committee Chair, and one person from the second and/or third year class. Another suggestion was made that, in addition to the Board's Officers, each class elect one member and the President to appoint two members who are committee chairs. It was the consensus of the Board that individual Board members would give the Work Group input regarding the Executive Committee's authority so a more concrete proposal could be brought back before the Board.

Board Workload. It was the consensus of the Board that a reduced workload would be advantageous and that work on reducing the workload has already begun. Discussion ensued regarding specific recommendations and it was noted that additional training would be instrumental in helping the Board stay at an appropriate level of engagement rather than getting too deep into the weeds.

AMERICAN JUDICATURE SOCIETY WASHINGTON CHAPTER RECOMMENDATIONS RE PROPOSED GR 35 (JUDICIAL PERFORMANCE EVALUATION PROGRAM – Hon. Terry Lukens, Hon. Michael Trickey, Hon. John Ruhl, and Robert Mitchell)

Hon. Trickey noted that the American Judicature Society no longer exists and that the focus of the Washington Chapter was to look at judicial evaluations. He reviewed the genesis and history of the proposed Rule and advised that it is currently being reviewed by the Supreme Court Rules Committee and the Board for Judicial Administration (BJA). He stated that the presenters will be speaking to various entities and that they hope to obtain the Board's support. Mr. Mitchell and Hon. Ruhl reviewed the various components of the proposed Rule and emphasized that the voters in Washington state have requested more information regarding the judges who are placed on ballots. President Gipe informed the Board that the proposed Rule will be referred to the Board's Rules Committee for review. Discussion ensued regarding judicial evaluations with short election cycles; the position of the Superior Court Judges' Administration; the help the proposed Rule will give sitting judges; funding; confidentiality in relation to the Public Records Act; and weighting for evaluation returns. The presenters noted that time is of the essence since the proposed Rule must be at the Supreme Court by September in order to be included in the Rule process. President Gipe clarified that the Board is being asked to comment and to provide its comment to the Supreme Court. Chief Disciplinary Counsel noted that the proposed Rule makes lawyer noncompliance a violation of the RPC and therefore unethical, and he inquired whether other less severe remedies might be more appropriate and effective. President Gipe suggested any further questions be referred to Governor Masters who also asked the presenters to assign someone to work with the Board's Rules Committee since their voice is needed at the table.