

WASHINGTON STATE BAR ASSOCIATION

BOARD OF GOVERNORS EMERGENCY MEETING

Public Session Minutes

Conference Call

March 12, 2019

The Emergency Public Session Meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Bill Pickett on Tuesday, March 12, 2019, at 2:10 p.m. by telephone conference call. Governors in attendance were:

Dan W. Bridges
Daniel D. Clark
Peter J. Grabicki
Carla Higginson
Jean Y. Kang
Russell Knight
Christina A. Meserve (in person)
Athan P. Papailiou
Kyle D. Sciuchetti
Alec Stephens
Paul Swegle (in person)
Judge Brian Tollefson (ret.)

Also in attendance were President-elect Rajeev Majumdar, Executive Director Paula Littlewood, General Counsel Julie Shankland, Director of Human Resources Frances Dujon-Reynolds, Chief Disciplinary Counsel Doug Ende, Chief Regulatory Counsel Jean McElroy, Chief Operations Officer Ann Holmes, Director of Advancement/Chief Development Officer Terra Nevitt, Outreach and Legislative Affairs Manager Sanjay Walvekar, and Executive Assistant Margaret Shane. Governor Hunter was not present for the meeting.

President Pickett announced that this emergency meeting was requested by Governor Sciuchetti in order to discuss House Bill 1788 (bill) pending before the Washington state Senate. Governor Sciuchetti gave an overview of the history of the legislation and Legislative Affairs Manager

Walvekar explained the history and makeup of the Stokesbary bill, the Jenkins bill, and the subsequent striking amendment proposed by Senator Pedersen. Governor Sciuchetti reported that the Washington Supreme Court (Court), by majority, asked Senator Pedersen not to advance the bill at this time and that the Senator demurred and indicated the striking amendment would move forward.

Discussion ensued regarding the Board opposing the bill; letting the Court take the lead rather than getting out in front of the Court; it being premature for the Board to make a statement to the Legislature until the Board reviews the striker amendment language, and understanding the intended connection to the Court's Bar Structure Workgroup; concern that Board opposition to the legislation could be viewed as self-dealing; taking no position at this time and waiting until further information as available and taking a position later; opposing the bill at this time and then switching if there is an amendment that makes the bill better; opposing the bill now and reconvening at a later date to discuss any amendments; and joining the Court's request not to advance the bill at this time and then reconsider only after the Structure Workgroup's work is complete.

President Pickett then took comments from people on the phone, which included: erosion of bar self-governance by the Court stating it has plenary authority; whether the legislation bifurcates the bar; support for the Board declaring its position soon as the bill seemed to be moving fast; opposition to the bill in its current form; concern for loss of services and disproportionate impact on small and solo law firms; importance of letting the Legislature know what content the Board wants in a striker amendment; whether the governors' use of the word "members" included Limited License Legal Technicians (LLLTs) and Limited Practice Officers (LPOs); the Court overreaching in thinking the WSBA is its personal agency, making it time to form a voluntary bar association and leave regulatory and discipline under the direction of the Court and its budget, and because the Board takes political positions the members do not agree with; and when the Board speaks, it speaks for every member of the state, which proves that there is compelled speech, resulting in a *Janus* challenge.

In answer to an inquiry regarding whether there will be an impact on resources with the loss of the Executive Director at the end of March, Governor Swegle replied that the organization's staff are strong and experienced, that all key positions are filled, the organization is working well, and a succession plan is in the works because the continuity of the organization and the services it provides are important, and the loss of the Executive Director will not put the functioning and the finances of the organization in doubt. Interim Director Nevitt clarified that any big staff change can be disruptive, but the work of the organization continues.

Concerns were raised regarding the speed with which the bill is moving through the Legislature and the speed of the Legislative Committee's response. Manager Walvekar reported that the Legislative Committee began discussing this bill on February 8 and that he notified the Committee of his conversations with Representatives Stokesbary and Jinkins on February 19. Concerns were also raised that the bill sailed through the House because the Legislature does not like this Board. Manager Walvekar replied that he heard that the Representatives have been watching the Board meetings, but had not heard that the Board was the reason for the bill's progress. Governor Meserve stated that she had heard that assertion stated in her district. She reminded the Board that Immediate Past President of the Government Lawyers Bar Association Brian Considine alluded to this assertion at the March 7, 2019, Board meeting when he spoke to the Board.

Governor Grabicki announced that the striking amendment proposed by Senator Pedersen. Discussion followed regarding the amendment's effect, including whether it adequately addressed successorship issues and whether the Board should take action at this meeting or delay to seek member input. President Pickett stated that he would be willing to promptly set another Emergency Meeting. Executive Director Littlewood advised that the striking amendment would be sent to the members promptly. She explained that the draft amending language she had previously sent to the Board was proposed during the Governance Task Force and was similar to the striking amendment. Governor Higginson moved: be it resolved that the WSBA Board of Governors is opposed to ESHB 1788 and any other attempt to amend or repeal the State Bar Act until the Supreme Court WSBA Structure Workgroup has completed its work. Motion passed 10-

2 with Governors Bridges, Clark, Grabicki, Higginson, Kang, Knight, Sciuchetti, Stephens, Swegle, and Tollefson voting yes, and Governors Meserve and Papailiou voting no. Governor Swegle requested that the Court be given the roll call vote on this motion.

Governor Stephens moved to inform the WSBA members about the bill and that the Board has taken the position to oppose the bill; inform the WSBA members of the striking amendment and share the amendment with the members; ask for member comments; and reserve the right to come back to take further action. Motion passed unanimously. Governor Bridges was not present for the vote.

ADJOURNMENT

There being no further business before the Board in Emergency Public Session, the Emergency Public Session was adjourned at 3:55 p.m. on Tuesday, March 12, 2019.

Respectfully submitted,

Terra Nevitt

Terra Nevitt
WSBA Interim Executive Director & Secretary