

BOG LEGISLATIVE COMMITTEE

Meeting Minutes

April 12, 2019

Governors present by phone: Gov. Dan Clark, Gov. Chris Meserve, Gov. Carla Higginson, Gov. Jean Kang, President-Elect Rajeev Majumdar, Chair Kyle Sciuchetti, Gov. Brian Tollefson (4:33 pm)

Staff present by phone: Sanjay Walvekar, Julie Shankland, Russell Johnson, Sara Niegowski

WSBA Board of Governors Legislative Committee (BLC) Chair Kyle Sciuchetti began the meeting at 4:19 pm.

Action taken: 4/5 meeting minutes approved. No objections.

Sanjay updated the BLC on the current status of SB 5003. It has left House Rules and will likely receive a floor vote soon.

Discussion re: ESHB 1788.

- ESHB 1788 passed the Senate on 4/10 and will now go back to the House, which has to decide whether to concur with the Senate amendments. Those amendments include extension of the implementation date to July 2020, entity creation/maintenance language, and a requirement that if the Court delegates governance of the organization, a majority of any governance group must be elected by the membership.
- If the House does not concur, it can ask the Senate if they want to recede from the amendments; if the Senate agreed, then the bill that left the House would pass.
- If the Senate doesn't agree, then leaders from the two bodies would discuss in conference committee. Sanjay indicates it's unlikely to occur with a bill like this.
- Discussion around whether the full House will vote, whether there is an opportunity for further amendments, and what the Governor could do with this bill. The full House will vote on the Senate amendments, there are no opportunities for further amendments, and the Governor can choose to veto the bill.
- Committee discusses whether the Senate version of the bill is better than the House version and if the Governor would be more inclined to veto the House version, if that's what the concurrence process yields. Consensus that the Senate version is more favorable to the organization than the House bill. Sanjay indicates that the Governor has used his veto power infrequently.

- Gov. Higginson mentions that the vote count in the Senate was encouraging and that it might be defeated in the House. She proposes an email update from the WSBA to all members informing them that they're moving from a democracy to a dictatorship, benign though it might be, and encouraging them to contact members of the House. She also suggests that the BLC send a letter to all members of the House and that WSBA members should be told their dues would likely increase if the bill passed.
- Gov. Higginson asks if Sanjay has heard any feedback from legislators. Sanjay has not heard specific feedback but indicates that Sen. O'Ban's comments during the Senate floor debate may be the best position for the BLC to take going forward. Sen. O'Ban echoed what many on the BLC have said which is that this bill is premature.
- Chair Sciuchetti reminds the BLC that the Board's official stance has been that this bill is premature and that the Legislature should wait for the Structure Work Group to complete its work. Gov. Higginson agrees, but wants to alert WSBA members to a new opportunity to provide input.
- President-Elect Majumdar asks if the bill could stop moving in conference committee. Sanjay says that he supposes it can, but the goal of the conference committee is to come to a resolution on the bill.
- Chair Sciuchetti says he was encouraged by Sen. Pedersen's comments on the Senate floor. The implementation date of July 2020 gives the opportunity for another legislative session to propose a new bill.
- Discussion around whether 1788 as it exists would have to be repealed or amended. Sanjay has seen examples of bills with longer implementation timelines that have been amended in interim sessions (before the implementation date); it's likely that this could be amended in an interim session.
- Gov. Meserve reminds the BLC that the Board could lose the democratically elected provision in conference committee, since Sen. Padden added the language and Sen. Pedersen and Rep. Jinkins would have no reason to keep it. She suggests that energy should be directed towards the Structure Work Group. Further political maneuverings in the Legislature could be risky and enemies have been made in the process.
- Chair Sciuchetti proposes focusing on the Structures Work Group. If events and decisions over the next year suggest that the Board should take additional action, then the BLC can come back in 2020 and discuss with legislators.
- President-elect Majumdar agrees that good groundwork was made and that was reflected on the Senate floor. He suggests thanking everyone that acknowledged and listened to the Board but not declaring victory, as this won't be taken well by the membership.
- Discussion around whether enemies in the Legislature have been made by the Board's actions. Chair Sciuchetti indicates that legislators have not been hostile in meetings with Board members. Gov. Meserve declines to name legislators who may be enemies but reiterates that the Board should be more thoughtful and diplomatic in its approach.

- Gov. Kang agrees that if the Board continues to fight and push then the whole Board could make enemies. She agrees with Gov. Clark that focusing on the Work Group and coming back to the Legislature next Spring is a good option.
- Gov. Higginson disagrees and suggests that it's not in the best interest of the members to give up.
- Discussion around best action going forward. Sara offers that the best option for the long term is to position the organization to be credible so that we can be advisors on the Work Group and to legislators during the next legislative session.
- President-Elect Majumdar suggests writing a letter to representatives stating that the Board opposes the bill in general but that the Senate amendments are much better than the original House bill. The letter should also ask legislators to keep an open mind for next session and work with Board members to potentially revisit this issue next year. Chair Sciuchetti agrees that this is consistent with the Board's official position that the bill is premature.
- **President-Elect Majumdar states that that would be his motion. Gov. Clark seconds. Five ayes, Gov. Higginson opposed.**
- President-Elect Majumdar asks that the motion include language saying that the Chair and the staff will work on getting this implemented.
- Discussion around the bylaws prohibiting Governors and officers of the Board from expressing positions contrary to the official positions of the Board. Consensus that individual Governors are not prohibited from contacting legislators in their individual capacity. Exceptions exist for the President and President-Elect.
- Sara cautions that statements by individual governors have not helped the Board's position; Gov. Higginson asks for clarification.
- Sanjay says that Rep. Jinkins has mentioned that she is not happy with how Gov. Tollefson characterized the bill in his district update, specifically the statement that the Board had not been asked for its opinion.
- Gov. Tollefson clarifies that the only time that he sent an update was right after it passed out of the House and the Board had not had a meeting to take a position. He has tried to reach out to Rep. Jinkins since then.
- Chair Sciuchetti notes that Rep. Jinkins mentioned this issue directly to him in their meeting. He explained to Rep. Jinkins that the Board was moving as quickly as it could but perhaps not as quickly as she would like.
- Gov. Tollefson reminds committee members that the BLC was told the bill was only going to get a cursory hearing in her committee, after which the bill moved quickly; Chair Sciuchetti understands that everyone was caught off guard but also moved as quickly as they could.
- Gov. Higginson indicates that many on the BLC were blindsided by the bill and suggests that Gov. Meserve and Paula Littlewood knew about the bill ahead of time. Chair Sciuchetti states that he has no sense that Paula Littlewood or Gov. Meserve knew about the bill ahead of time.
- Gov. Meserve clarifies that she does not have more information than anyone else and did not hear anything ahead of the BLC. She remembers having a discussion with the BLC trying to figure out if the Court was behind this and whether or not taking a position in opposition would

be in opposition to the Court. She has not contacted anyone and expressed any opinions about the bill.

- Gov. Clark shares information that he received about the bill in March from a legislator. Rep. Jinkins said that the Board does not oppose the legislation; there is no mention of Gov. Meserve or anyone else. Sara says that the Board's position at that point was not in opposition yet.
- Chair Sciuchetti mentions that one of the last things that Rep. Jinkins said in their meeting was that at one time the WSBA was very active in the Legislature and that she would like to see that return. Perhaps she sees bifurcation as allowing the Bar to have a larger political presence. Chair Sciuchetti suggests if that's what she wants, then it might be good to keep her in good graces.
- Chair Sciuchetti clarifies that the Board is still opposing the bill. Individual members of the Board should feel free to contact their representatives in their individual capacities.
- Sanjay and Sara will work with President-Elect Majumdar on language to be sent to members of the House.

Meeting adjourned by Chair Kyle Sciuchetti at 5:37pm.