

BOG LEGISLATIVE COMMITTEE

Meeting Minutes

April 5, 2019

Governors present by phone: Chair Kyle Sciuchetti, Gov. Chris Meserve, Gov. Carla Higginson, Gov. Dan Clark, President-Elect Rajeev Majumdar, Gov. Kim Hunter, Gov. Jean Kang

Staff present by phone: Sanjay Walvekar, Russell Johnson, Terra Nevitt, Sara Niegowski, Julie Shankland (4:50pm)

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WSBA Board of Governors Legislative Committee (BLC) Chair Kyle Sciuchetti began the meeting at 4:11pm.

Action to approve 3/29 meeting minutes initiated by Chair Sciuchetti. Five ayes, Gov. Higginson abstains.

Sanjay led the committee in an update on SB 5003. The bill is expected to pass the House, but may be delayed in getting out of House Rules due to a number of budget-related bills in that committee.

Discussion on ESHB 1788

- The bill is still in Senate Rules, which usually meets on Wednesdays and Fridays. It's not clear which bills will be pulled from committee each day until the meeting itself.
- Chair Sciuchetti asks how much notice is given on a Senate Rules meeting; Sanjay indicates it's usually around 24 hours beforehand.
- Sanjay agrees to send an email to the committee when he is notified that Senate Rules will be meeting.
- President-Elect Majumdar updates the committee on his letter and his call with the Chief Justice asking her and the Court to reexamine the bill and review the proposed amendment sent by the Board. A majority vote was taken by the Court to not take any action.
- President-Elect Majumdar updates the committee on Gov. Swegle's conversation with the Chief Justice re: a request to provide assurances that the Court will keep bar governance intact. The Chief Justice followed up with Gov. Swegle and told him that the Court took a majority vote to take no action on his request.
- Chair Sciuchetti explains the ruling in the Gruber/Crowe litigation by the federal magistrate judge in Oregon that leaned heavily on the Oregon State Bar Act.

- Chair Sciuchetti reached out to the Chief Justice and let her know that he wanted to talk about the ruling at the Structures Work Group meeting on Monday, 4/8; the Chief Justice agreed.
- President-Elect Majumdar suggests approaching legislators with information about the Gruber/Crowe litigation and a potential floor amendment.
- Chair Sciuchetti asks Sanjay about approaching Sen. Padden. Sanjay believes that Sen. Padden would not be open to the proposed amendment, given that the amendment he proposed in the Senate Law & Justice Committee was likely a response to the BOG's feedback.
- Chair Sciuchetti recommends approaching Sen. Padden with the new information out of Oregon. The lawsuit was against the State Bar Association in Oregon and the Washington State Bar Association could face a similar action (and defend itself with the State Bar Act).
- Sanjay believes that finding a sponsor for a floor amendment would be difficult now that it's left committee in a bipartisan fashion.
- President-Elect Majumdar believes that Sen. Mark Mullet may be willing to hear concerns about the bill.
- President-Elect Majumdar and Sanjay discuss the concurrence process and next steps on this legislation in the House. Rep. Laurie Jinkins will likely lead next steps in the House.
- Sanjay says the downside of approaching Sen. Mullet is that it may seem like an end around Sen. Padden, Sen. Pedersen, and Rep. Jinkins.
- Gov. Higginson asks why the committee should be concerned about going around legislators who have already indicated they support the legislation; Sanjay believes that organizational reputation is the main reason, especially with Sen. Pedersen sponsoring Bar-request legislation.
- Chair Sciuchetti suggests approaching Sen. Padden, Sen. Pedersen, and Rep. Jinkins with a letter presenting the new ruling out of Oregon.
- President-Elect Majumdar suggests also approaching the ranking minority member of the House Civil Rights & Judiciary Committee.
- Gov. Hunter suggests including Rep. Laurie Dolan in any communication.
- Chair Sciuchetti asks Sara to draft a letter presenting the findings and information in the Gruber/Crowe litigation.
- President-Elect Majumdar suggests the letter go to five people: Rep. Dolan and the Republican and Democratic leaders of House Civil Rights & Judiciary and Senate Law & Justice Committees.
- Gov. Higginson recommends that the committee also find someone to sponsor an amendment.
- Chair Sciuchetti asks Gov. Hunter to approach Rep. Dolan re: a potential floor amendment.
- President-Elect Majumdar suggests that everyone contact their local state senator as constituents to see if they'd be willing to listen to concerns.
- Chair Sciuchetti asks Gov. Higginson to check in with Gov. Swegle to see if he knows someone who may be willing to sponsor an amendment.
- President-Elect Majumdar will contact the Lieutenant Governor over the weekend.
- Gov. Higginson asks Sanjay his thoughts. Sanjay believes that the current language is probably the best and final version of the bill. Sen. Padden's amendment which was approved by the Senate committee is directly responsive to feedback from the BOG. Sanjay doesn't think that the BOG's proposed amendment aligns with Sen. Pedersen's stated intentions around the

legislation. Senators and Representatives might say they aren't inclined to support something but may change their tune after caucus.

- Chair Sciuchetti suggests that Sen. Padden isn't approached on the amendment but rather just given information about the Oregon ruling.
- Sanjay asks Chair Sciuchetti to clarify what argument the committee wants to put forward re: the Oregon ruling.
- Chair Sciuchetti explains that the Oregon ruling deals directly with *Janus* and relied heavily on several elements of the Oregon State Bar Act, including public corporation status, funding, and governance. Clear that the Oregon State Bar Act was a primary factor in the dismissal. By repealing the Washington State Bar Act, WSBA could be exposed to litigation.
- Gov. Higginson asks if Sanjay needs a bullet point list of talking points regarding the Oregon case; Sanjay believes that will be helpful. Gov. Higginson will work on a draft and send the final version to the committee.
- Sanjay asks if the committee saw the proposed Take Note update for the membership.
- Committee agrees to include a sentence in the Take Note update about the Board's efforts to convey WSBA's concerns to legislators. Sanjay will work with Gov. Higginson and President-Elect Majumdar on language.

Meeting adjourned by Chair Kyle Sciuchetti at 4:56pm.