

COURT REPORTERS BOARD

OF CALIFORNIA

2535 Capitol Oaks Drive, Suite 230, Sacramento, CA 95833 Phone (916) 263-3660 / Toll Free: 1-877-327-5272 Fax (916) 263-3664 / www.courtreportersboard.ca.gov



COURT REPORTERS BOARD OF CALIFORNIA MINUTES OF OPEN SESSION FEBRUARY 6, 2015

CALL TO ORDER

Ms. Toni O'Neill, Chair, called the meeting to order at 10:33 a.m. at the Department of Consumer Affairs HQ2, 1747 North Market Boulevard, Hearing Room, Sacramento, California.

ROLL CALL

Board Members Present:

Toni O'Neill, Licensee Member, Chair

Davina Hurt, Public Member

Rosalie Kramm, Licensee Member Elizabeth Lasensky, Public Member

John K. Liu, Public Member

Staff Members Present:

Yvonne K. Fenner, Executive Officer

Angelique Scott, Staff Counsel Fred Chan-You, Staff Counsel Paula Bruning, Executive Analyst Melissa Davis, TRF Coordinator

A quorum was established, and the meeting continued.

I. MINUTES OF THE DECEMBER 4-5, 2014 MEETING

Ms. Lasensky moved to approve the minutes as presented. Second by Ms. Hurt. Ms. O'Neill called for public comment. No comments were offered. A vote was conducted by roll call. **MOTION CARRIED UNANIMOUSLY**.

II. REPORT OF THE EXECUTIVE OFFICER

Ms. Fenner began by thanking the Board for accommodating the last-minute change to the Board meeting date from January 30, 2015, to February 6, 2015.

A. CRB Budget Report

Ms. Fenner referred to the corrected expenditure projection report, which was distributed at the meeting (see Attachment). She then invited Jennifer Jacinto, budget analyst, from the Department of Consumer Affairs (DCA) to speak to the Board regarding the changes. Cynthia Dines, budget manager, joined Ms. Jacinto.

Ms. Dines indicated that one line item, "438.00 Central Admin Svc-ProRata," was incorrectly projected. This item pays for statewide services such as the State Controller's Office, State Treasurer's Office, California Department of Human Resources, Department of General Services, and Department of Justice. The projection should be the same as the actual amount in the pro rate budget, but it was not. Once the pro rate budget was corrected from \$72,752 to \$36,375, the projection reflected a surplus of 2.4% instead of a deficit of -1.4%.

Ms. Kramm requested clarification in regards to the other projections listed in the report. Ms. Dines responded that she reviewed the other projections and determined they were accurate. She offered an apology for the error. She indicated that pro rata projections should be listed as what is budgeted; therefore, that number should not change from the budgeted amount.

Ms. O'Neill inquired how the correction might affect amounts listed in the fund condition. Ms. Dines indicated that the expenditures listed on the fund condition in the prior fiscal year are the actual amounts that were spent. The amounts listed in the current and future fiscal years are what have been appropriated.

Ms. Dines pointed out that the Board can only transfer funds to the Transcript Reimbursement Fund (TRF) if the Board has at least six months of reserve in its fund. Ms. O'Neill asked that if the revenue and expenditures remained the same, would the program no longer be able to fund TRF. Ms. Dines confirmed that as accurate. She further stated that the further out the projection, the less helpful they are. Adjustments are periodically made to revenue projections based on licensee base, expenditure projections based on projects, et cetera.

Mr. Liu inquired if the 4.2 months in reserve projected for budget year 2015/16 on the fund condition would mean the TRF could not be funded. Ms. Dines responded that it would require a reduced amount, potentially from \$300,000 to \$125,000 for fiscal year 2015/16 and then to nothing for the following year. Ms. O'Neill indicated that legislation for a fee cap increase would play into the amounts that could be distributed to the TRF down the line.

Ms. Fenner reiterated that the projected fund condition numbers are subject to change due to many variables. They are based on the current revenue and expenditure amounts, which can change from year to year.

Ms. Dines stated that there is some reserve in the TRF; therefore, a transfer may not be required for quite some time. Only \$100,000 is transferred at a time, but \$300,000 per year is the maximum. Ms. Bruning indicated that an amount closer to \$200,000 was being utilized annually for the TRF Pro Bono Program, but added that \$30,000 is also allocated to the Pro Per Program annually.

Ms. Hurt asked if the Overtime line item, number 083.00, was connected to a specific subject matter. Ms. Fenner responded that overtime is the cost of staff grading the dictation examinations. The staff that grade the tests are specially trained.

B. Transcript Reimbursement Fund

Ms. Bruning reported that \$97,321 had been allocated to the Pro Bono Program thus far during the current fiscal year, covering 162 invoices. She added that there was nearly \$90,000 in applications pending; however, only 19 applications are pending review. More than 100 applications are deficient and pending additional information or documentation.

Ms. Kramm inquired if a cutoff time can be determined for the older deficient applications. Ms. Bruning responded that after making contact requesting the missing items, she places them in a pending file and moves on to the next application. Unlike the Pro Per Program, there is more flexibility in moving forward since the Pro Bono Program funding has not been limited. As time allows, she follows up with the applicants later.

Ms. Davis indicated that the \$30,000 funding for the Pro Per Program became available January 1, 2015. She therefore began processing applications from January of 2014. At the time of the meeting, she was processing application from June of 2014. She stated that she has approximately \$34,000 in requests, but less than \$20,000 left to allocate. The process is slow going due to missing information on applications. Letters are sent reminding the applicants of what is missing with a 15-day deadline to respond. Ms. Davis added that 141 requests were approved in 2014.

Ms. Hurt proposed an applicant database where status checks can be conducted. In addition, information can be posted once the funding is depleted to close the application window. Ms. Davis indicated that phone calls would probably always be a constant since many of the applicants do not have access to the Internet. Ms. Bruning added that consideration had been given to closing the application window; however, the law states that applications are processed in the order received. It would be difficult to determine which application of 20 was received first.

Ms. Davis indicated that some of the contact information on applications currently being processed is outdated due to the age of the application, making it difficult to reach them. An additional clause has been added to the initial contact letters requesting that the applicant withdraw their application if at any time they determine they no longer need assistance. Ms. Kramm suggested that a clause be added reminding the applicant to notify the Board of any change of address or phone number.

C. Exam

Ms. Fenner referred to the historical examination report on page 22. She stated that the only change since the December 5, 2014 meeting was to the dictation examination.

Ms. Fenner added that based on the previous budget report that included the error to the Central Admin Services Pro Rata, the item writing workshop was canceled. An analysis will be conducted to determine if it can be added back into the schedule.

D. School Updates

Ms. Bruning stated that Irvine Valley College contacted Regal Court Reporting, the industry associations and the Board to inquire about starting a court reporting program. She has been invited to participate in a conference call on February 26, 2015, but has indicated that she will be a source of information regarding Board program requirements only.

E. Education/Outreach

Ms. Fenner reported that the MTFS webinar was posted to the Board's YouTube channel and has received positive feedback as to its usefulness to students and reporters. Ms. Bruning stated that the video had received 669 views in one month, and 19 individuals have subscribed to the channel.

Ms. Fenner indicated that the voluntary court reporters oath was rolled out to the associations and schools. Ms. O'Neill added that during a speaking engagement for the California Court Reporters Association's (CCRA) Boot Camp, she administered the oath to 20 new court reporters. She also invited the working licensees in the attendance to take the oath and they were excited to participate. She indicated that it was embraced and treated with seriousness. She hopes that the oath will become a regular part of the association meetings.

Ms. Fenner indicated that the oath was also sent to our subscriber list. Ms. Hurt expressed that it is important to market the oath and send it to the courts. Ms. O'Neill suggested that staff locate the code section regarding swearing in official reporters and attach it to the oath for the courts.

Ms. Lasensky asked who can give the oath. Ms. O'Neill responded that it is voluntary, so anyone could do it. Ms. Fenner stated that it was anticipated that it would be given by any officer of the court, such as another court reporter, an attorney or a judge.

III. ENFORCEMENT REPORT

Ms. Fenner indicated that the enforcement statistics on pages 29 and 30 in the Board agenda packet were prepared by the enforcement analyst, Connie Conkle, who was staffing the Board office. She offered to answer any questions.

Ms. Hurt expressed her surprise in the long average number of days it takes for completion of the disciplinary orders. Ms. Fenner indicated that it is difficult to predict the processing time for the Attorney General's Office (AG). Sometimes a matter is assigned right away, and other times it is a month or more before being assigned. Another consideration is the budget. If the Board depleted its money for the AG line item, the AG's office may be asked to hold cases until the next fiscal year. This can impact the number of days it appears to take to process items. In addition, the licensee may have asked for continuances, further delaying the process. Ms. Fenner noted that hearings before the Office of Administrative Hearings do seem be scheduled on a much quicker basis now; therefore, the timeframe has been shorted from a year to a month or two.

IV. STRATEGIC PLAN UPDATE

A. Task Forces

Ms. Bruning referred to the Best Practices for Exhibit Handling and Best Practices for Interpreted Depositions documents in the Board agenda packet. She reported that a request was made to the Publication, Design, and Editing (PD&E) Unit of DCA to make the best practices documents more visually appealing as requested by Ms. Hurt. PD&E worked to fulfill that request as well as bring the documents into uniformity with the other publications designed for the Board, such as the TRF trifold and student career brochure. The service was covered utilizing the DCA pro rata services available to the Board.

The Board members complimented the updated documents. Ms. O'Neill added that the documents are pdf files so they will be easily downloadable and available at the users' fingertips. She would like the Board to create more of these types of documents.

Ms. Lasensky asked how the documents would be distributed. Ms. O'Neill indicated that it will be distributed via the Board's subscriber list and posted to the Board's Web site. She also envisioned it would be used by the schools. Ms. Kramm added that the associations would likely disseminate the information as well. Ms. Bruning indicated that the Spring 2015 CRB Today Newsletter would also feature the Best Practices documents.

Ms. Hurt stated that the first Best Practice Pointers meeting is anticipated to meet on a weekend day in the spring. There are currently three volunteer members, and she welcomed more. Ms. Fenner invited ideas for practice pointers from the audience and associations.

Ms. O'Neill indicated that members had been selected for the Electronic Signature Task Force; however, budgetary issues prevented the group from meeting. Moving forward, the Task Force will have a huge task ahead of them, including determining what qualifies as a certified signature, how it is created and the legality of electronic signatures. The use of electronic signatures is already common in the court; however, it may only be because no one has challenged them to this point. Since the court reporters tend to look to the Board for direction, Ms. O'Neill expressed a desire to be proactive on this front versus reactive to a complaint. She directed staff to contact the members to meet in the near future.

Ms. Kramm agreed that guidelines were needed. She stated that it is an ever-changing practice where attorneys may ask reporters to do one thing today and another tomorrow. Structure would be desirable to facilitate everyone doing the same thing, and the Board is a perfect place to accomplish that.

Ms. Hurt inquired if the Board could coordinate with the State Bar Association to gain their perspective on the best practices. Ms. Fenner responded that a committee might be warranted specific to attorney outreach. There are many areas where educating the attorneys could benefit them as consumers. Ms. Hurt agreed that it could be beneficial to highlighting the legitimacy and importance of court reporters. Ms. O'Neill concurred that such a committee could act as an umbrella to several subtopics.

The Board took a break at 11:26 a.m. and reconvened into open session at 11:41 a.m.

B. 2015-2018 Strategic Plan

Ms. Fenner referred to the Strategic Plan in the Board agenda packet.

Ms. O'Neill invited the Board to offer comments and corrections.

Mr. Liu stated that he liked the plan and thought it was descriptive of the collaborative work the Board did. He suggested that it be formatted to match the other documents recently put forth by the Board to bring uniformity to it. Ms. Fenner agreed that it could be updated to reflect the same look.

Ms. Fenner indicated that changes could be made to the plan if deemed necessary. Ms. O'Neill expressed that she did not find anything missing. Ms. Hurt stated that she compared the plan to her notes, and it appeared to be accurate. Ms. Fenner credited the SOLID Training and Planning facilitators for the quality of the plan.

Ms. Lasensky moved to approve the Strategic Plan as presented. Second by Ms. Kramm. Ms. O'Neill called for public comment. No comments were offered. A vote was conducted by roll call. **MOTION CARRIED UNANIMOUSLY**.

Ms. Fenner reported that she and Ms. Bruning would be meeting with the facilitator to develop an action plan, which will enable staff to update the Board on the progress of the plan goals.

V. REPORT ON LEGISLATION

Ms. Fenner described the license fee increase that took effect in 2010 to the statutory cap of \$125. Upon reviewing the long-term projections, it has been determined that the Board's fund condition will be in a deficit within a couple of years. To increase revenue, the Board will need to either increase testing or renewal fees or reduce expenditures. Ms. Fenner referred to the expenditures pie chart on page 49(c) in the Board agenda packet. A corrected copy was distributed at the meeting with a change to the fiscal year title to 2013-14.

Ms. Fenner explained that the only area that expenditures could be reduced is in the number of examinations offered from three to two annually. The savings would only be approximately \$10,000, which is relatively small. Examination fees could be increased from \$25 per exam portion to \$75 each; however, it would only net approximately \$,10,000. One other area that could impact the budget is by not funding the TRF; however, the TRF has proved to be a selling point of the Board to the Legislature in years past.

Ms. Fenner referred to scenarios listed on the Summary of Proposed Fee Revenue on page 49(d) of the Board agenda packet, which detail how a license fee increase would affect the fund. If the Board elected to increase the license fee, a legislative change would be required.

Ms. O'Neill called for discussion from the Board.

Ms. Lasensky expressed that she would like to see the least amount of damage to the public. Ms. Hurt inquired if the Board's fees have been compared to other states. Ms. Fenner indicated that staff is currently researching that information. A cursory review indicated that Idaho's fee is less at \$80; however, the results of the other states thus far are higher. Ms. Hurt stated that the comparison is important, especially since the fees have remained low for many years. An increase would be deemed appropriate to keep the Board solvent.

Ms. O'Neill added that although our fees are on the low end, California is the only board known to have a reimbursement fund. She echoed Ms. Lasensky's expression of protecting the TRF.

Ms. Hurt indicated that reducing the number of examinations would lessen the opportunity for court reporters to enter the industry; therefore, she would not be in favor of cutting examinations. Mr. Liu agreed that either reducing examinations or increasing examination fees would burden the student population. The amount of time between examinations could actually cost them more money by not having the ability to obtain gainful employment as a court reporter. Ms. Kramm added that cutting an examination would go against the newly adopted Strategic Plan, which has a goal of adding more court reporters to the market. Ms. Lasensky added that having the test is a promotion of the Board by keeping it in front of the court reporting world, including the schools and students.

Ms. O'Neill called for comments from the public.

Brooke Henrikson, speaking on her own behalf, commented that the license fees remained low for 25 years. She suggested the Board increase the license fee cap higher than proposed to allow a leeway in the future. Ms. Fenner appreciated her input and put before the Board the option to increase the fee cap. The current cap of \$125 was set in 1951.

Ms. O'Neill expressed that setting a cap versus setting a specific fee would allow the Board more flexibility to increase the fee as needed. As a consumer protection agency, the Board needs funding to accomplish its mission.

Mr. Liu inquired how durable the proposed \$225 cap would be taking into consideration the upcoming BreEZe expenses. Ms. Fenner stated that the scenarios were taken from the projections received from the Budgets Office and did not include BreEZe expenses. A two percent cost of living increase has been built into the expenditures but nothing more.

Mr. Liu asked how much BreEZE has affected the budget of the boards that are now on the program. Ms. Fenner responded that there has been a significant impact including direct costs and staff time. Based on the size of this Board, it may not be extreme; however, it is difficult to predict without a contract in place.

Ms. O'Neill suggested the Board determine what the cap should be taking into consideration that changing it requires legislation. Therefore, the Board may want to avoid needing to initiate further legislation in a short time frame to increase it again.

Ms. Lasensky questioned how the Board would make the determination reflecting that it took many years for the Board to reach the current cap. Ms. Kramm asked how the proposed change to \$225 was reached. Ms. Fenner responded that staff made an effort to

increase the fee cap enough to avoid returning to the Legislature in less than 10 years. The BreEZe expenses were not taken into consideration.

Mr. Liu inquired about the projected timeframe for the Board going live with BreEZe. Ms. Fenner responded that without a contract, she anticipated it would be more than five years. She expects that a meeting will be held in the near future to discuss those details.

Ms. Fenner referred to scenario 2, which would increase the fee to \$175. That increase would extend the Board's budget to fiscal year 2021-22 before another increase would be needed. However, BreEZe could shorten that timeline significantly. She estimated that increasing the license fee cap to \$225 would allow the Board 10 years before needing to request another statutory increase through the Legislature.

Ms. Fenner reminded the Board that they are not setting the fee at this time. Instead, they have the opportunity to request legislation to raise the licensing fee cap so that future fee increases can be made by resolution.

Ms. O'Neill asked the Board if they wanted to raise the cap to \$225 or another amount. Mr. Liu responded that it should be no less than \$225.

Ms. Kramm inquired if the Board could authorize staff to decide the license fee cap amount based on additional data. Ms. Fenner commented that it would be considered a substantive change, not a technical correction; therefore, the Board would need to meet about it.

Ms. O'Neill stated that the legislative deadline for finding an author was quickly approaching.

Ms. Kramm expressed that an increase to the cap to \$250 made sense. She added that going to states where there is no licensing reveals how delicate the industry is. She finds a value to the cost of licensing and asserted that the Board will only charge what is necessary.

Ms. O'Neill inferred that a cap of more than \$250 may be necessary. Based on their past dealings to the Legislature, Ms. Fenner requested feedback from Ms. Lasensky and Ms. Hurt on how a higher increase might be received by the Legislature. Ms. Hurt responded that an increase to \$300 might be alarming; however, doubling it from 1951 may have a more positive reception.

Ms. Lasensky moved to accept the proposed language to Business and Professions Code 8031(d) as reflected in the Board agenda packet, but with a licensing fee cap of \$250. **MOTION RESCINDED**.

Ms. Hurt moved to adopt the proposed legislative language with an increase to \$250 and delegate to the executive officer the authority to make technical or non-substantive changes and direct staff to take all steps necessary to seek an author and pursue legislation for the proposed fee cap increase for the current legislative year. Second by Ms. Lasensky. Ms. O'Neill called for public comment. No comments were offered. A vote was conducted by roll call. **MOTION CARRIED UNANIMOUSLY**.

Ms. Fenner reported that staff anticipated the Board's vote to move forward with legislation and contacted the industry associations. Based on the proposed \$225 fee cap increase, the associations indicated that they would not oppose a bill to do so. In addition, staff set up meetings in the next week with consultants in the Assembly and Senate committees that will most likely hear such a bill. Ms. Hurt inquired if Board member presence was necessary for the upcoming meetings. Ms. Fenner indicated the Board members were certainly welcome, but if time was limited, it might be better spent down the road when searching for an author and visiting legislators' offices. There will also be an educational component to gain votes.

VI. SCOPE OF PRACTICE REGULATION

Ms. Fenner recounted that at its last meeting, the Board directed staff to work with the industry associations to develop language that would address the concerns raised at that meeting. As a result, the newly proposed language was developed and is presented to the Board for approval.

Ms. O'Neill called for comments and questions.

Ms. Hurt complimented the Board staff and industry associations for their collaboration. Mr. Liu also expressed his appreciation for those who worked to create the language.

Mr. Liu moved to adopt the proposed change to CCR 2403(b)(3) for a 45-day comment period and delegate to the executive officer the authority to adopt the proposed regulatory changes as modified if there are no adverse comments received during the public comment period and also delegate to the executive officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. Second by Ms. Hurt. Ms. O'Neill called for public comment. No comments were offered. A vote was conducted by roll call. **MOTION CARRIED UNANIMOUSLY**.

VII. FUTURE MEETING DATES

Ms. Fenner indicated that it was not anticipated that the Board would meet again until after the new fiscal year based on the incorrect budget expenditure projections; however, if there is a need, a meeting could be scheduled sooner. She proposed the Board meet in conjunction with the upcoming dictation examination in Los Angeles on July 3, 2015.

Mr. Liu indicated that he would have a schedule conflict for July 2 and 3, 2015. Ms. O'Neill indicated that driving to Los Angeles during a holiday weekend would be too difficult.

Ms. Fenner offered to poll the Board via e-mail to set a date. She reminded the Board that a minimum of one meeting per year must be in Southern California. Ms. Kramm offered to host a meeting of the Board in San Diego.

VIII. PUBLIC COMMENT

Diane Freeman, Deposition Reporters Association, expressed her gratitude for the work the Board is accomplishing.

IX. CLOSED SESSION

This item was deferred. The Board did not have a need to meet in closed session.

X. ADJOURNMENT

Ms. O'Neill adjourned the meeting at 12:26 p.m.

O Joil 6-36-15 Wome K Jewn 6-30-15
LL, Board Chair DATE YVONNE K. FENNER, Executive Officer DATE

2/5/2015

COURT REPORTERS OF CALIFORNIA - 0771 BUDGET REPORT FY 2014-15 EXPENDITURE PROJECTION Dec-2014

	FY 2013-14 FY 2014-15							
		ACTUAL	PRIOR YEAR	14-15	CURRENT YEAR			
	OBJECT DESCRIPTION	EXPENDITURES (MONTH 13)	EXPENDITURES (MONTH 8)	Budget Aut	EXPENDITURES (MONTH 5)	PERCENT SPENT	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
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063.01		2,100	1,000	7,310	100	1%	2,800	4,510
083,00		8,485	5,959	6,000	3,305	55%	9,500	(3,500
103-137	\$4000000000000000000000000000000000000	169,517	79,959	153,685	95,668	62%	192,000	(38,315
	TOTALS, PERSONNEL SVC	492,418	237,403	506,211	264,210	52%	535,006	(28,795
	OPERATING EXPENSE AND EQUIPMENT							
201.00		7,589	1,920	4,784	841	18%	2,000	2,784
213.04		510	294	1,449	392	27%	700	749
226.00	, , ,			7,800		,,	0	7,800
241.00	Printing (General)	3,171	1,020	916	320	35%	1,500	(584
251.00	Communication	5,211	1,668	1,160	1,919	165%	5,200	(4,040
261.00	Postage (General)	10,461	4,982	5,516	4,919	89%	11,000	(5,484
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404.00							0	
	DEPARTMENTAL SERVICES:						0	0
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427.34		1,696 1,675	1,022 870	1,742 1,897	840 920	48% 48%	1,742	0
427.33	INTERAGENCY SERVICES:	1,075	670	1,001	820	4070	1,897	
428,00		43	22	3,251	19	1%	100	3,151
32.00-449.00		280	44	1,578	1,538	97%	3,000	(1,422
438.00	11.*	28,819	14,410	36,375	18,188	50%	36,375	(1,722
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343.20		24,752	44,648	7,680	36,972	481%	31,500	(23,820
404.00		14,662	14,160		14,160		15,500	(15,500)
404.01	C/P Svcs-External Expert Examiners	18,047	12,159	30,479	7,643	25%	22,000	8,479
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545.00	Special Items of Expense						ō	0
	Other Items of Expense			1,125		0%	Q	1,125
609.00	Tort Payments			0				0
	TOTALS, OE&E	379,863	302,722	503,229	270,819	54%	436,896	66,333
	TOTAL EXPENSE	872,281	540,125	1,009,440	535,029	106%	971,902	37,538
991937 00		•						0
991937 01			(98)	(17,000)	(245)		(900)	
991937 02		(4,551)		(1,000)	(470)		(600)	
995988 01		AA7 7A.	(1,140)	- 667 446	(3,089)		(2,500)	2,500
	NET APPROPRIATION	867,730	538,652	991,440	531,225	54%	968,002	23,438
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