

BOG LEGISLATIVE COMMITTEE

Meeting Minutes

March 22, 2019

Governors present by phone: Chair Kyle Sciuchetti, Gov. Chris Meserve, Gov. Dan Clark, Gov. Brian Tollefson, Gov. Kim Hunter, Gov. Dan Bridges, **(at 5pm)** President Bill Pickett, President-Elect Rajeev Majumdar, Gov. Jean Kang, Gov. Carla Higginson

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

Guests present by phone: Gov. Paul Swegle

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WSBA Board of Governors Legislative Committee (BLC) Chair Kyle Sciuchetti began the meeting at 4:08pm.

Action item: Gov. Dan Clark moved to approve 3/15 meeting minutes. Gov. Chris Meserve seconded. Approved unanimously.

Sanjay Walvekar gave the committee an update on bar request bill SB 5003 which passed through House Civil Rights and Judiciary Committee unanimously today. The bill is expected to get a floor vote soon.

Discussion on process of ESHB 1788 FAQs being posted on WSBA webpage and shared with county bar and section leaders:

- Chair Sciuchetti was troubled that the update/FAQs regarding ESHB 1788 went out without going through the BLC first because it creates confusion with the membership regarding the stance of the BOG, particularly with Professor Hugh Spitzer's testimony highlighted.
- Sanjay explains that the update was drafted yesterday. It went to county bar leaders list serv on 3/21, the section leaders list serv on 3/22, and was posted on the WSBA website.
- Chair Sciuchetti asks for any other updates on the bill, with the understanding that the bill is scheduled for an executive session in the Senate Law & Justice Committee next Thursday (3/28).
- Sanjay mentions that there is an updated fiscal note which shows no fiscal impact; he will share with the committee.
- Chair Sciuchetti asks the committee for any questions regarding the process of drafting and sending the FAQs.
- Governor Swegle asks why the FAQs were sent out without first being run through the BLC and what role Paula Littlewood had in drafting and sending the FAQs.

- Paula explains that she reviewed drafts and the whole executive team reviewed drafts, which is standard process. Paula states that normally staff don't run these by the BLC and that staff felt there was urgency to get something out to clear up confusion.
- Paula and Governor Swegle discuss whether the bill creates a new entity.
- Governor Swegle believes that Paula Littlewood drove the communications; Paula explains that the whole executive team reviewed drafts and offered edits.
- Sara Niegowski states that the FAQs was not initiated by Paula Littlewood and that the drive to draft this FAQ was to provide more neutral and factual information for members. Sara mentions that the bar has received so many questions and the individual differing updates have been hurting the bar's credibility.
- Chair Sciuchetti reminds that this an extraordinary bill and highlights the need to slow down and take this more carefully.
- Governor Bridges offers that the board are the members and that while the staff are wonderful and smart, they work for the board. Therefore, the staff cannot unilaterally decide to put out communications that refute the views of the board.
- Governor Bridges feels that Professor Spitzer's comments should not have been highlighted over the governors present that testified on the bill.
- Governor Tollefson asks where to go from here, given obvious difference of opinion.
- Chair Sciuchetti's view is that WSBA should correct the website rather than send out more communications.
- Governor Clark indicates that trust has been broken with executive staff. He feels that the FAQs are biased.
- Governor Hunter agrees with Governor Tollefson and Governor Clark. Members in Governor Hunter's district want to know why she didn't send out an update to them. Governor Hunter is troubled that Professor Spitzer's comments were highlighted over the testimony of the four Board members.
- Governor Swegle agrees with Governor Hunter and indicates that he is also troubled.
- Sara Niegowski suggests working with Chair Sciuchetti to get the FAQs fixed. Chair Sciuchetti agrees, but wants to involve the committee, to the extent possible. Sara informs the committee that the FAQs did not go out to the full membership. Corrected information will go out to the full membership next week.
- Governor Swegle asks Paula Littlewood if she is talking to the Supreme Court about a position at any new agency. Paula states that she is not.

Discussion on substance of ESHB 1788 FAQs posted on WSBA webpage and shared with county bar and section leaders:

- Chair Sciuchetti suggests the FAQs shouldn't highlight Prof. Spitzer's testimony. The timeline should also reflect that the board acted as quickly as possible to address a rapidly changing situation.

- Chair Sciuchetti is concerned that people are saying that no one knew about this bill. Sanjay did tell the BLC, but everyone was surprised that this bill actually moved. Chair Sciuchetti is not too concerned about the language regarding the court or the other information in the FAQs.
- Governor Swegle states that you cannot repeal the charter and put the same name on it and have it be the same entity. Governor Swegle believes that the bar needs to correct this information.
- Governor Clark would like to see a more fair and balanced update and alert the members to what may happen under the bill, including a section that explains the legislation will repeal the BOG.
- Governor Tollefson would like to start by describing the Senate bill and then telling membership how the board voted and what the board allowed the delegation to do (include the delegation's talking points). Governor Tollefson also suggests placing the discussion about the WA Supreme Court before the discussion about the WSBA.
- Governor Tollefson mentions that he met with members who were shocked to hear that WSBA doesn't have an outside lobbyist.
- Governor Meserve indicates that WSBA has not had an outside lobbyist for many years.
- Governor Meserve appreciates that the WSBA does have a legislative presence and notes that if emails go out saying that the WSBA doesn't have a legislative presence and that the legislature is trying to do away with the WSBA, then that's a problem.
- Governor Meserve tells the committee that Hugh Spitzer was invited by Sen. Pedersen to speak before the committee; the FAQs don't necessarily need to include him but the BLC should be aware of that.
- Governor Bridges agrees that setting forth both sides is fair.
- Chair Sciuchetti would like to list "the knowns" of the legislation, as that's the best information to offer to the membership.
- President Pickett states that he believes the board gets more credibility if the board can summarize points that oppose its position because it shows that they have considered all sides. Chair Sciuchetti agrees, but notes that the President stating a position opposite to the Board creates confusion.
- Governor Higginson indicates she is troubled by President Pickett publicly supporting this bill.
- Governor Higginson would like to be on the record stating that if you're speaking as president of the WSBA then you should be speaking to the majority view of the BOG and it is very inappropriate when you share a divergent opinion.
- President Pickett notes that he is speaking to his own views about why he supports the legislation.

Discussion on proposed amendments to ESHB 1788:

- Chair Sciuchetti recaps Tuesday, 3/19 meetings with legislators and stakeholders and reasons for proposing amendments, including preserving portions of the State Bar Act and the bill that are important to the board and committee.

- Governor Swegle agrees with Chair Sciuchetti that Senator Padden would be the most likely sponsor for a proposed amendment.
- Governor Swegle and Chair Sciuchetti agree to revise Section 2 of the proposed amendment to the engrossed substitute bill to include language from the 1976 Supreme Court case.
- Governor Higginson asks Sanjay if he thinks a proposed amendment is the best option and whether others have lobbied on this bill.
- Sanjay's sense is that most stakeholders are staying neutral on this. Representative Jinkins will likely continue to support this bill, if it goes back to the House. Sanjay believes that Senator Pedersen will pass this out of committee and the amendment may be the best approach at this point.
- Governor Tollefson is a constituent of Representative Jinkins and will speak to her at a town hall meeting over the weekend.
- Chair Sciuchetti suggests that he and Sanjay meet with Representative Jinkins on Tuesday, 3/26. Discussion on whether President Pickett should also attend.
- Governor Higginson is opposed to President Pickett attending, given that his views are in conflict with the Board's position.
- Governor Hunter asks President Pickett if he is discussing the referendum with county bar associations; President Pickett states that he is not.
- Governor Swegle states that he does not want President Pickett to attend the meeting.
- Governor Meserve indicates that she is hearing from sources in Olympia that the bill will pass.
- Chair Sciuchetti takes a vote on whether committee members are in favor of President Pickett attending the meeting with Representative Jinkins. **Four nays, three ayes, Governor Clark abstains.**
- Sanjay and Chair Sciuchetti will plan to meet with Representative Laurie Jinkins on Tuesday, 3/26.
- Sara and Chair Sciuchetti will work on revising the FAQs.
- Sanjay and Chair Sciuchetti will work on the proposed amendments.

Meeting adjourned by Chair Kyle Sciuchetti at 5:55 pm.