



## **COURT REPORTERS BOARD OF CALIFORNIA**

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### **COURT REPORTERS BOARD OF CALIFORNIA MINUTES OF OPEN SESSION APRIL 27, 2012**

#### CALL TO ORDER

Ms. Toni O'Neill, Chair, called the meeting to order at 10:02 a.m. at the Department of Consumer Affairs, 1747 North Market Boulevard, 1<sup>st</sup> Floor Hearing Room, Sacramento, California.

#### ROLL CALL

##### Board Members Present:

Toni O'Neill, Licensee Member, Chair  
 Gregory Finch, Public Member, Vice Chair  
 Reagan Evans, Licensee Member  
 Elizabeth Lasensky, Public Member

##### Board Members Absent:

Lori Gualco, Public Member

##### Staff Members Present:

Yvonne K. Fenner, Executive Officer  
 Dianne R. Dobbs, Senior Staff Counsel  
 Angelique Scott, Staff Counsel  
 Paula Bruning, Executive Analyst

A quorum was established, and the meeting continued.

The Board immediately convened into closed session (see Agenda Item XIII) before returning to Agenda Item I in open session at 10:20 a.m.

Ms. O'Neill reminded the audience to approach the designated table to make public comment and speak clearly so as to be heard by all.

#### I. MINUTES OF THE OCTOBER 27, 2011 MEETING

Ms. Lasensky requested the change of the word "for" to "on" in the last line of the fifth paragraph from the bottom of page 2 of the minutes. Mr. Finch moved to approve the minutes as corrected. Second by Ms. Lasensky. **MOTION CARRIED.**

#### II. BOARD AND STAFF APPEARANCES

Ms. O'Neill indicated that she had not made any appearances on behalf of the Board due to the travel restrictions in place for the State. However, she has found that wherever she goes for the profession, she is astounded by the types of questions she receives. She

stated that outreach to consumers and licensees will be imperative if the travel restrictions are ever lifted and the budget allows.

Ms. Evans echoed Ms. O'Neill's experience, indicating that she shares information with reporters in her professional travels.

Mr. Finch appeared before the Business, Professions and Economic Development Committee of the Legislature for the Sunset Review hearing.

Ms. Lasensky indicated that she had discussions with staff.

### III. REPORT OF THE EXECUTIVE OFFICER

#### A. Sunset Review

Ms. Fenner reported that she accompanied Mr. Finch to the Sunset Review hearing before the Business, Professions and Economic Development Committee of the Legislature. The recommendation is to extend the Board's sunset date from January 1, 2013, to January 1, 2017.

#### B. CRB Budget Report

Ms. Fenner referred to the Budget Report on page 24 of the Board agenda packet, which outlines expenditure projections through fiscal month 9. The fund is close to breaking even as usual. Ms. Fenner then turned the attention of the Board to the Analysis of Fund Condition report on page 25, focusing on the overall health of the fund.

Referring to the Analysis of Fund Condition report for the TRF on page 23 that the Board requested to see semi-annually, Ms. Fenner indicated that the fund balance is more important than the number of months in reserve. She stated that Ms. Bruning would be providing more details on the TRF under Agenda Item V.J.

#### C. Transcript Reimbursement Fund

Ms. Bruning reported that the main Transcript Reimbursement fund condition continues to be fiscally sound. The second year of the two-year Pro Per Pilot Project began January 1, 2012. There were approximately six months of applications pending from 2011 awaiting funds from 2012 before the year even started. The project is already nearing full allocation of the \$30,000 allowance for the year. At the time of the meeting, the Pro Per fund had approximately \$2,500 left for allocation with over \$7,000 in applications pending review.

Ms. Bruning stated that staff submitted a legislatively mandated report to the Judiciary Committees of the Senate and Assembly on March 1, 2012, which was also incorporated into the Sunset Review background report.

#### D. Exam

Ms. Fenner indicated that the Board is set up for the June CSR dictation examination; however, there is not a contract in place yet for the fall examination. She stated that

staff is working on obtaining bids from hotels, which are coming in higher than the \$2,000 bids in the past, now ranging from \$12,000 to \$20,000. The examination requires the use of two fairly large rooms; however, the number of sleeping rooms has been reduced over the years resulting in a lower profit for the hotels.

Staff is looking at options, but resources may become limited very quickly, resulting in a reduction in the number of tests offered each year. She reported that the schools may be polled on whether they prefer to keep three tests a year, with all of them in Los Angeles, or would they prefer to move to two tests to keep one in Northern California.

Ms. Fenner shared other options under consideration which included utilizing fairgrounds or schools. However, staff faces obstacles in both of these scenarios as well. She mentioned that the National Court Reporters Association utilizes tape recordings to administer their examinations. Ms. O'Neill stated that live-voice tests are more effective than tape recordings and prefers to keep tapes as a last resort.

Ms. Evans suggested the Board offer the examinations in conjunction with state association meetings to share space and costs. She inquired how many people in Northern California take the test versus Southern California. Ms. Fenner responded that there are fewer candidates in Northern California, but an analysis has not been conducted.

Mr. Finch stated that he would prefer to keep at least one examination in Northern California. He suggested pursuing options outside of hotels to keep the costs down. If the exams were to be held at a school, he did not see a problem with home-court advantage to those attending the host school.

#### E. Exam Workshops

Ms. Fenner indicated that the last two examination development workshops were cancelled. The number of workshops will be reduced in an attempt to contain costs. If the Board offers fewer tests, there will be fewer costs for development.

#### F. School Updates

Ms. Bruning stated that staff is initiating Phase I of the school oversight reviews. The target date is June 1, 2012. The Phase I process includes a request of information from the schools to be reviewed by staff at the Board office. There is no travel involved in Phase I.

#### G. CRB Today Newsletter, Spring 2012

Ms. Fenner referred to the latest edition of the CRB Today newsletter in the Board agenda packet. Ms. Evans complimented Ms. O'Neill on the Message from the Chair.

Ms. Fenner indicated that the topic of privatization of the courts has been a hot topic, generating many calls to the Board and questions at seminars. She summarized the article by stating that freelance reporters entering court become official pro tem reporters and as such are subjected to statutory rates. She indicated that there is no

uniformity across counties, which adds to the confusion. The goal of the Board is to educate licensees as to the statute and the Board's intent to enforce it.

#### H. BreEZe

Ms. Fenner indicated that the BreEZe project is still on schedule, and the Board will be included in the third wave of implementation in 2013. Ms O'Neill inquired when the final figure of the costs will be available. Ms. Fenner responded that she has received only preliminary figures. She stated that the charges will be on a schedule based on use, not implementation.

#### IV. ENFORCEMENT REPORT

Ms. Fenner referred to the statistics provided on pages 42 and 43 of the Board agenda packet. Statistics for the first quarter of Fiscal Year 2011/12 were provided on pages 43 and 44 of the packet.

Ms. O'Neill indicated that she is amazed by the number of citations issued for not renewing a license on time. Ms. Fenner emphasized that once the license expires without being renewed, the reporter is not licensed to take testimony or certify a transcript.

#### V. UPDATE ON GIFT GIVING REGULATIONS

California Code of Regulations, Title 16, Section 2475 (a)(8)

Ms. Fenner reported that at its last meeting, the Board granted the petition brought forward by the Deposition Reporters Association (DRA) to clarify the person or entity specified in the code section. She added that as part of the discussion, the Board requested to see the language in the Nevada law pertaining to this matter, which was provided in the Board agenda packet for the Board's review. She requested direction from the Board as to how they would like to proceed so that staff may prepare the regulatory package.

Ed Howard, on behalf of DRA, reiterated that the Board granted the petition for regulation and discussed other language at its last meeting. He requested that the Board move forward with the regulatory package with the language approved.

Mr. Finch recommended that the Board continue with the language presented at the last meeting so as to not start over with the public comment process. Ms. O'Neill and Ms. Evans indicated that they liked portions of the Nevada law, which may make enforcement easier. Ms Fenner stated that there will be plenty of time for public feedback during the one-year regulatory process.

Ms. Lasensky inquired if the Nevada language would be easier to enforce, or is the language previously provided sufficient to provide the level of enforcement that the Board wants to see happen. Ms. Fenner responded that the Nevada language may seem easier because it is so restrictive; however, she could imagine individuals coming up with ways around it.

Early Langley, California Court Reporters Association, indicated that she would be taking advantage of the public comment period.

Ms. O'Neill directed staff to begin the regulatory process with the previously approved language presented by DRA.

VI. REQUEST FOR EXTENSION OF PROVISIONAL RECOGNITION FROM TAFT COLLEGE COURT REPORTING PROGRAM – AT WESTEC CAMPUS

Ms. Bruning indicated that Taft College Court Reporting Program had submitted a request for a one-year extension of their provisional approval. Taft College had gained their provisional approval status at the October 27, 2011, Board meeting retroactive to December 8, 2008. That provisional approval expired on December 8, 2011, and they have yet to graduate a student who began their course of study at their campus.

Ms. Evans moved to grant a one-year extension for provisional approval to Taft College Court Reporting at WESTEC Campus. Second by Ms. O'Neill. **MOTION CARRIED.**

VII. STRATEGIC PLAN UPDATE

Ms. Fenner presented the draft 2012-2014 Strategic Plan to the Board for adoption. She added that staff had developed an action plan and list of objectives to implement the Board's goals.

Mr. Finch moved to approve the Strategic Plan as presented. Second by Ms. Evans. **MOTION CARRIED.**

VIII. APPOINT CONTINUING COMPETENCY TASK FORCE

IX. APPOINT TECHNOLOGY TASK FORCE

The Board considered Agenda Items VIII and IX together.

Ms. Fenner reported that as part of the Strategic Plan development, the Board wished to pursue continuing competency and technology task forces. She requested direction from the Board as to whether or not to reconstitute these task forces and how to go about doing that considering the budget and travel constraints in place. She suggested ideas to carry out meetings, such as limiting the members by a geographic location or utilizing teleconferencing.

The Board members agreed that both areas were important and that task forces should be appointed. Mr. Finch stated his preference to use teleconferencing versus limiting members geographically. Ms. Lasenksy agreed that utilizing technology would have an advantage over limiting areas of the state to be represented. Ms. Fenner stated that the Board should have access through DCA to use teleconferencing.

Ms. O'Neill requested that staff send out an email to interested parties calling for volunteers for the task forces.

Ms. Evans volunteered to chair the continuing competency task force, to which Ms. O'Neill appointed her. Ms. O'Neill appointed herself as chair the technology task force.

## X. REPORT ON LEGISLATION

Ms. Fenner reported that AB 2657 (Calderon) would require transcripts created from proceedings recorded electronically to designate as inaudible or unintelligible any portions of the recording that contain no audible sound or are not discernible. This may be beneficial to litigants using such transcripts for court proceedings. Ms. Fenner requested that the Board take a position on this bill.

Ms. Lasensky moved to "SUPPORT" AB 2657. Second by Ms. Evans. **MOTION CARRIED.**

Ms. Fenner indicated that SB 1237 (Price) extends the Board's sunset date from 2013 to 2017. With direction from the Chair, staff prepared a letter of support to the legislative committee since the hearing date was prior to the Board meeting. Since that time, the bill has been amended to include and extend the TRF and the Pro Per Pilot Project. The staff have shared concerns regarding the 70 percent increase in workload brought on by the pilot project, but have been uncomfortable stating that the project should be ended. Ms. Fenner requested feedback from the Board regarding the pilot project considering the increase in workload.

Mr. Finch stated that additional staff time is a must if the project is to be continued. Ms. Bruning indicated that some of the Board's mandated work, such as school oversight, is being deferred due to the increase.

Ms. Fenner indicated that the information regarding the workload impact and the Board's needs would be passed along to the Legislature in hopes that appropriations would be allowed for additional staff or resources. Mr. Finch requested that staff seek allocation through the TRF to pay for the additional staff and resources.

Mr. Finch moved to "SUPPORT" SB 1237 and direct staff to work with the Legislature on eliminating the fiscal impact to the Board. Second by Ms. Lasensky. **MOTION CARRIED.**

Ms. Fenner reported that AB 2076 (Ma) would require litigants to pay an hourly fee for official court reporter services. The fee would stay in the local court and would not go to the Administrative Office of the Courts. The bill is being reviewed by the Assembly Appropriations Committee, and the Board staff is watching its progress.

Ms. Fenner indicated that staff is also watching AB 2372 (Hill), which allows service of process on attorneys who do not pay their bills at their State Bar address of record. The bill is in the Assembly Judiciary Committee for review.

Ms. Fenner stated that AB 1904 (Block, Butler, and Cook) would mandate state agencies to issue a temporary license to holders of a reciprocal license in another state if they have been transferred into California because they or their spouse are in the military. The bill is being reviewed by the Assembly Appropriations Committee.

Mr. Howard shared that AB 2372 has been amended to require attorneys who have a final judgment against them by a court reporter to provide to the court reporter upon request an address for personal service. The bill passed out of the Assembly Judiciary Committee as amended.

XI. PUBLIC COMMENT

Ms. Langley indicated that she has concerns regarding the newsletter article, "Pitfalls of Privatizing Court Reporters." She stated that the codes are ambiguous as to what constitutes a pro tem, quoting several sections that may be in conflict with each other, and requested clarification on the Board's stance. She requested information as to who the Board will cite on a complaint of fees, the deposition firm or the freelancer. She requested information on what fees the freelancer may charge in civil matters. She inquired how far back retroactively the Board would go for enforcement of the code on fees.

Ms. Langley suggested that the Board sponsor a bill to clarify some of the silent or ambiguous laws. She requested a legal opinion to address her questions and concerns.

Ms. Fenner responded that the Board doesn't have a legal opinion, but worked with staff counsel to develop the Board's position. A legal opinion is typically based on a specific question. Ms. Fenner indicated that she would work with Ms. Langley on developing a question to obtain clarification or a legal opinion.

XII. FUTURE MEETING DATES

The Board agreed to wait until a contract for the fall dictation examination was established before deciding on the next meeting date.

XIII. CLOSED SESSION

Closed session was taken at the beginning of the meeting.

The Board convened in to Closed Session pursuant to Government Code sections 11126(a) and 11126(e)(2)(A).

XIV. ADJOURNMENT

Ms. O'Neill adjourned the meeting at 12:00 p.m.

	<u>10-12-12</u>		<u>10-15-12</u>
TONI O'NEILL, Board Chair	DATE	YVONNE K. FENNER, Executive Officer	DATE