

OREGON STATE BAR
Legislative Proposal
Part I – Legislative Summary

RE: SB 244 (1 of 2) Increasing the size of the OSB Board of Governors

Submitted by: Oregon State Bar Board of Governors

Legislative Contact: Susan Grabe
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1. Does this amend current law or program? Yes.

ORS 9.025

2. PROBLEM PRESENTED (including level of severity):

Since 1996, ORS 9.025(2) has required the OSB Board of Governors to divide the state into regions for the purpose of electing members of the board (the same regions are used for electing delegates to the House of Delegates pursuant to ORS 9.136). The statute also requires that “to the extent that it is reasonably possible,” the regions shall be configured so that “the representation of board members to attorney population in each region is equal to the representation provided in other regions.”

The Board undertook its first review of the regions under revised ORS 9.025 in 1997 and made only minor changes in the configuration of the six regions that had existed since 1972. In addition to achieving a “one person/one vote” representation as nearly as possible, the board was influenced by members’ desire that regions include only contiguous counties with common interests.

The deviation from equal representation in the six regions ranged from -4.5% to +15.2%. By 2007, due to changing demographics in the bar, the deviation spread was from -14.3% to +21.7%.

3. SOLUTION:

The Board studied several options and ultimately concluded that the most equal representation could be accomplished by re configuring some regions and adding two lawyer members to the Board of Governors.

The proposal alters existing regions by moving Lincoln County from Region 3 to Region 4; moving Yamhill County from Region 6 to Region 4; moving Benton and Linn Counties from Region 3 to Region 6; moving Klamath County into Region 3; and creating a seventh region out of Clackamas County. One of the new board members will represent the enlarged Region 4 and the other will represent the new Region 7.

Under this plan, the deviation from equal representation ranges from -0.3% to +17.7%. The proposed plan also retains regions comprised of contiguous counties.

The alteration and addition of regions is contemplated by existing language ORS 9.025. The proposed statutory amendment would enlarge the board by the two new lawyer members.

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RE: SB 244 (2 of 2) Amends ORS 9.160 and 9.162 to clarify that geographic location is the defining issue in determining whether an attorney is “practicing law” in the State of Oregon.

Submitted by: Oregon State Bar Board of Governors

Legislative Contact: Susan Grabe
Phone : (503) 431-6380
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1. Does this amend current law or program?

Yes. This proposal would amend ORS 9.160 and 9.162.

2. PROBLEM PRESENTED (including level of severity):

There are a number of attorneys who have established a permanent presence in Oregon. These attorneys practice law outside of Oregon for clients who also reside outside of Oregon. These attorneys are not licensed in Oregon and believe they are not required to seek bar admission because they are not practicing law within the definition of ORS 9.160.

There is confusion about the definition of “practicing law.” The Oregon State Bar Unauthorized Practice of Law Committee (UPLC) has taken the position that the out of state attorneys are “practicing law” unlawfully in Oregon. The Board of Bar Examiners (BBX) has declined to treat the possible Unauthorized Practice of Law as a character and fitness consideration when the attorney applies for admission in Oregon.

3. SOLUTION:

A study group was formed with representatives of the Oregon State Bar offices, Board of Bar Examiners and Unauthorized Practice of Law Committee. The study group reviewed rulings from other jurisdictions (Florida and Maryland) and determined that a lawyer practices law in the place where the lawyer is physically located while performing the services.

The statute can be clarified by amending ORS 9.160 and 9.162 to make clear that the provision of legal services in Oregon is the practice of law in Oregon, regardless of the location of the client or the jurisdiction whose law is in play.

4. PUBLIC POLICY IMPLICATION of this proposed legislative change:

Reinforces Oregon’s public policy of ensuring that Oregon’s statutes are unambiguous in the regulation and licensure of the legal profession.

5. Could the problem be addressed through a **NON-LEGISLATIVE SOLUTION**, such as administrative rule or education?

No.

6. **COULD ANOTHER SECTION OR GROUP MORE APPROPRIATELY INTRODUCE THE BILL?** If so, have you suggested it to the section or group?

No.

7. **IDENTIFY THE GROUP OR CONSTITUENCIES THAT WOULD BE MOST IMPACTED** or interested in this change. Who would support it and who would oppose it?

The groups most likely to be interested in this change are lawyers both licensed in this state and out-of-state lawyers who need clarification on requirements of licensure. Consumers might also be interested in orderly regulation of the legal profession.

Out-of-state lawyers seeking to avoid admission to the Oregon Bar would likely oppose the change.

8. **Has this been introduced in a prior session?**

No.

It would also allow the board to assign a shorter term to one or more board members as necessary to implement changes in the regional configuration so as to assure staggered terms and relatively even size of the “classes” of the board.

4. **PUBLIC POLICY IMPLICATION** of this proposed legislative change:
5. Could the problem be addressed through a **NON-LEGISLATIVE SOLUTION**, such as administrative rule or education? No.
6. **COULD ANOTHER SECTION OR GROUP MORE APPROPRIATELY INTRODUCE THE BILL?** If so, have you suggested it to the section or group? No.
7. **IDENTIFY THE GROUP OR CONSTITUENCIES THAT WOULD BE MOST IMPACTED** or interested in this change. Who would support it and who would oppose it?

Bar members in nearly every region will be impacted by the proposed change. The proposal has been distributed to the membership for the past several months and there have been no negative reactions.

8. **Has this been introduced in a prior session?** No.