

**Financial Impact Statement**  
**Increase 2005 Active Membership Fees by \$50**  
*Board of Governors Resolution No. 1*

## **Background**

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At its August 19 meeting, the Board of Governors voted to approve a \$50.00 membership fee increase for 2006. If approved by the House of Delegates, this action would raise the membership fee to \$482.00 for 2006, including the assessments for the Client Security Fund and Affirmative Action Program of \$5.00 and \$30.00, respectively. The fee for active members less than two years in practice would be \$403.00. Five dollars of the increase has been designated specifically for a loan repayment assistance program (LRAP) to be developed during 2006. The LRAP program will be modeled after other national programs designed to provide law school loan assistance or loan forgiveness to students who opt for public-interest jobs instead of private practice.

The \$50.00 increase will generate approximately \$640,000 in revenue for the 2006 budget. Approximately \$64,000 of that amount will be designated for LRAP. Pending no major changes in bar programming or operations, this additional revenue will not cause another fee increase for 5-6 years.

## **The Purpose of the Member Fee Increase**

### **Current Conditions**

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The need for the fee increase is based on future financial projections and not on past performance. Each year, as part of the annual budget preparation process, the Board of Governors reviews financial projections and forecasts for the next five years. This is to assure the board understands the financial impact current year decisions will have on future years. This also aids in maintaining a long-term view of bar finances in planning for new or changing programs or services.

Since 2000, the bar has had a Net Revenue (revenue exceeds expenses) or a small Net Expense (expenses exceed revenue). For 2005, the bar's budget is a \$17,000 Net Expense. However, due to projected lower revenue in CLE activities and a well-over budget cost for contracted legal fees, the Net Expense for 2005 probably will exceed \$100,000. Without a fee increase, the projected Net Expense for 2006 is

\$204,000 and the Net Expense in 2007 would be more than twice that much.

The Board of Governors is satisfied with the current level of services to members and the public and has resolved not to make major reductions in programming and services, and therefore has approved the fee increase. The line item budget is prepared by bar staff and approved by the board in November. Staff are expected to refine their budgets to assure they achieve their program's and the bar's objectives. For example, during the 2005 process, the mid-year projection was a \$125,000 deficit. By the time the budget was approved by the board, that deficit was reduced to the aforementioned \$17,000.

### **Previous Fee Increases**

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The last membership increase was \$26.00 for the 2003 membership year. Fifteen dollars of this increase was earmarked specifically for the Casemaker™ library and the balance was allocated to funding the development of the Client Assistance Office. The most recent general membership fee increase for general bar budget purposes was \$50.00 for 2001.

The increase of \$50.00 for 2006 is an average increase of 2.7% a year above the 2000 general membership fee of \$371. The annual average Consumer Price Index (CPI) for the five-year period ending July 31, 2005 was 2.6%.

### **Why the Forecast for a Fee Increase**

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The **Client Assistance Office (CAO)** was established pursuant to HOD direction in 2002 and offers an expanded level of service to the public who have concerns about bar members. The CAO communicates with members of the public, provides educational and resource referral information, attempts to resolve communication problems between clients and lawyers, and screens the inquiries and complaints made to the bar. Prior to the CAO, the Disciplinary Counsel's Office (DCO) spent considerable time screening such matters to identify complaints with possible merit.

The portion of the fee increase in 2003 to establish the Client Assistance Office was not enough to fund

the program at its current level of service. Sixteen dollars was allocated to the CAO, \$11.00 from the 2003 increase and \$5.00 carryover from the previous year's fee. The 2005 budget for the CAO is \$433,000. This includes a six-person staff (three attorneys) and administrative costs. In 2003, the fee increase projected a cost of \$215,000 for the program with a staff of three FTE (only one attorney) and temporary staff. So today, the cost of the program is twice what was expected when the office was established three years ago. During the development of the CAO, two positions were transferred from DCO, so the net effect on the bar's total FTE was an additional four FTE (six total in CAO less two positions transferred from DCO).

The Client Assistance Office has had a noticeable impact on the lawyer complaint process. In 2004, the CAO received 3,659 inquiries, of which 488 were one-time contacts only. The net 3,171 inquiries were processed by CAO. Of those inquiries, 370 (about 10% of all inquiries received) were referred to the Disciplinary Counsel Office for further investigation. Thirty-eight percent of the inquiries to the CAO were disposed of in the same day. In 2002, the last year prior to CAO, the DCO opened 1,424 files as complaints against attorneys. In 2004, the first full year of CAO, the number of files opened by DCO was 457, of which 80% were referred from CAO.

Clearly, the numbers indicate the objectives of the bar's discipline process are being attained, that is, most inquiries are screened and handled before they become complaints, and DCO focuses its resources only on complaints deserving investigation and prosecution. The bar also has experienced significant progress in the pace disciplinary matters move through the system, a desired byproduct of CAO. At the same time, the CAO has exceeded expectations by handling twice as many inquiries, since inquiries now are accepted from all media - letter, telephone call, fax, e-mail, walk-ins - rather than written submissions only.

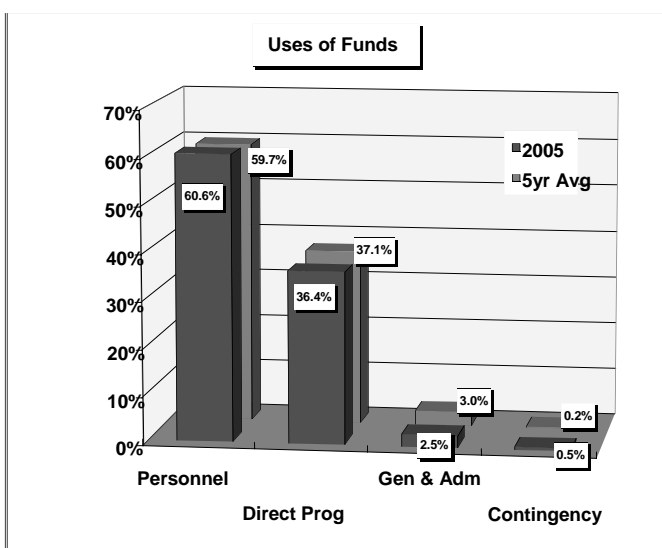
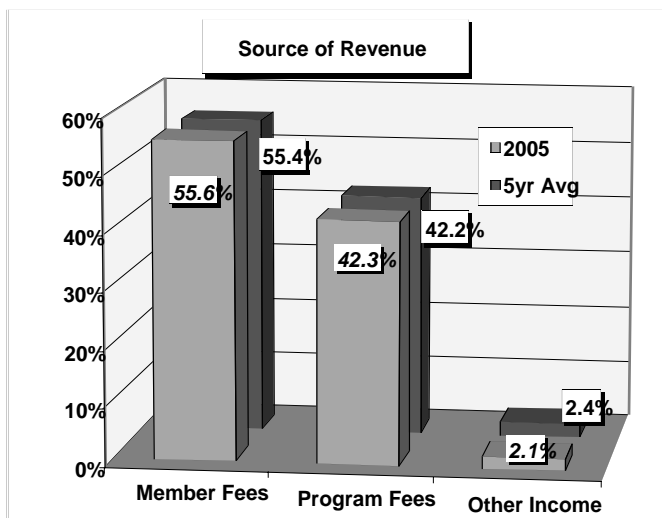
The amount the bar pays for **outside legal services** has increased dramatically in the past five years. By the end of 2005, the average for the last five years is expected to be \$95,000 to \$100,000 annually. These costs have been especially high due to two unique cases. The bar anticipates the need to expend large sums again in the next few years on cases for which volunteer counsel cannot be expected to handle. As a result of the higher costs, the preliminary 2006 and

forecasted budgets will increase the reserve for such costs by \$50,000 to \$100,000.

Both **CLE Seminars and Publications** are charged to financially break-even. Since 1998, the trend has moved from a break-even to a loss condition. This trend is expected to continue in the near future and follows the trend of similar operations in other bars. The Board of Governors has been reluctant to raise the price of these services due to its concerns about the impact of such increases on members.

The cost of the **retirement plan** for bar employees increased in 2005 and will increase again in 2007. Due to rate changes in mid 2005 and 2007, the bar expects to incur additional expenses of \$193,000 in these three budget years. Employees of the bar may elect to join the Public Employees Retirement System ("PERS"). Participation is voluntary. Employees who participate in PERS pay the employee pick-up portion through payroll deduction. Included in the omnibus bar governance bill submitted to the Oregon legislature in early 2005 was a provision to amend the Bar Act to eliminate the option for bar employees to elect to participate in PERS after December 31, 2005. In lieu of PERS for employees after that date, the bar would establish an alternative retirement plan. Before the bill received a hearing, the bar was informed by the governor's staff that the governor likely would veto the amendment, so the proposal was withdrawn. In spite of this setback, the bar continues to explore methods to reduce its retirement costs.

The charts "Source of Revenue" and "Uses of Funds" (see following page) compare the distribution of revenue and expenditures for the bar's 2005 budget with the average distribution for 2001 to 2005. In both revenue and expenditures, there is little change between 2005 and the five-year average. With an increase in 2006, the percent of revenue from membership fees will jump, but after five years, the comparison will be similar again. This comparison indicates the bar has not changed its operations, such that it is more dependent on membership fees to maintain its budget.



## How Have Bar Funds Been Used in the Last Five Years

The bar operated from 2001 to 2004 with a Net Revenue and made numerous financial commitments for services to members and to satisfy its commitment to access to justice. Here are highlights of some programs or services that have had a financial impact on the budget.

The board committed \$50,000 to the *Campaign for Equal Justice* for the first time in 2001. That amount has been included in the budget through 2005, and a like amount is tentatively budgeted for 2006.

An *electronic filing task force* was commissioned in 2004. The task force has received presentations on

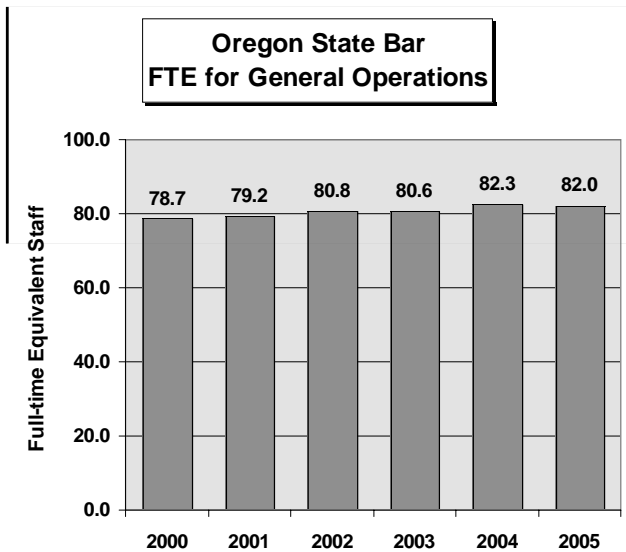
various existing electronic court systems and will review commercial applications in conjunction with the Oregon Judicial Department Technology Committee. The task force is reviewing various court rules and statutes that would require change in the event of electronic docketing and filing, and will issue a survey to a statistically significant sample of OSB members to gauge the interest, support and utility of an electronic docketing and filing statewide system for Oregon courts.

The *online legal research library*, Casemaker™, went live in September 2003. The increase in the membership fee by \$15.00 has supported the cost of the library subscription since its launch. Presently, about 1,400 members access Casemaker™ at least once a month, and since the library was launched, over 7,700 (62%) active members have logged into the members-only section of the bar's web page and most have been to access Casemaker™.

*Annual meetings* were held in Seaside (2001, 2003); Eugene (2002); and Portland (2004). Each year the attendance gradually declined, and the cumulative deficit of the four conferences was \$97,600 when the cumulative budget was \$6,900 in net revenue. This is a \$104,500 negative variance. Due to the declining attendance and the financial losses, the board decided not to hold an annual meeting in 2005.

### Personnel:

- Changes or enhancements in technology have had a significant impact on *administrative and operational functions* at the bar office. Enhancements to the bar's database, new accounting software, e-commerce, and a more interactive web site have been capital investments, which resulted in the elimination of four full-time positions and accelerated or eliminated numerous processes for bar staff. In addition, the bar now offers members timely access to the membership database, product purchasing, fee payment, section enrollment, and sharing information.
- The cost of bar operations has not increased due to additional staff or excessive new programs. In 2000, the FTE for general bar operations was 78.7. In 2005, the FTE is 82 - an increase of less than four FTE. As indicated earlier, the net increase in the FTE created by the Client Assistance Office is four, so the staff size essentially has remained the same since 2000.



Several bar programs have sources of revenue other than membership fees. The two largest are *CLE Seminars* and *CLE Publications*. These programs are charged to break-even financially. Unfortunately, for the four years from 2001 to 2004 these two activities have had cumulative expenses exceed revenue by \$635,000. This large deficit is due to revenue increasing an average of only 1.4% a year, far less than the annual personnel and direct program costs. The board views these programs as critical services to members and has avoided larger increases in the price of seminars and legal publications.

Not all bar programs operate with a deficit. Two activities generally operating with a Net Revenue are *MCLE* and *Admissions*. MCLE did not operate with a Net Revenue until it raised the late fees and sponsor fees in 2001. The Admissions program's financial operations fluctuate with the number of applicants, and with the onset of reciprocity with neighboring states in 2002 has operated with a Net Revenue.

A significant loss of revenue occurred when the PLF moved out of the bar center in mid 2001 and \$140,000 in annual *rental income was lost*.

### A Comparison to Western Mandatory Bars

The Oregon State Bar is unique in its broad breath of programming and member and public services.

- On the regulatory side, it administers and staffs admissions, client assistance, discipline, and MCLE. In many states, some or all of those regulatory functions are performed by state-run agencies.

- Oregon develops and presents both CLE seminars and legal publications. Some states have a separate non-profit or for-profit organization providing those educational resources.
- The online legal research library, Casemaker™, is available to all active members of the bar to use as little or as often as members need with no use or additional charges.
- Oregon is the only state with an Affirmative Action program with a separately funded fee.
- Oregon is one of few state bars that support a statewide lawyer referral service.
- Oregon provides all funding for major public and legislative affairs objectives, a new lawyers division, and extensive public communications efforts authorized by a prior House of Delegates.
- As many other bars, Oregon has a professional trade magazine, provides administration and support services to sections and local bars, and administers a governance structure for a House of Delegates and a Board of Governors.
- As all western state bars except the California Bar, the membership fee includes an assessment for a Client Security Fund.
- Although not a part of bar dues, Oregon is the only state with a mandatory professional malpractice plan operated by a division of the bar.

Most of the state bars on the west coast are mandatory bars. Oregon's active membership fee is not the lowest, nor the highest. The fees in the chart are all fees to practice (including, for example, Client Security Fund) for 2005.

State Bar	2005 Membership Fee
Alaska	\$550
Arizona	\$460
California	\$390
Hawaii	\$430
Idaho	\$360
Oregon	\$432
Utah	\$360
Washington	\$390