

**Oregon State Bar
2005 House of Delegates Meeting**

*Salem Conference Center
200 Commercial Street, S.E.
Salem, OR 97310
Saturday, October 1, 2005, 10:00 a.m.*



Dear House of Delegates Member:

The agenda for the 2005 House of Delegates Meeting included four resolutions with financial impact. Time did not permit the Board of Governors and bar staff to prepare a financial impact statement for those resolutions before the deadline to mail the agenda to all bar members. This document includes those financial impact statements. The four resolutions with financial impact are:

- Increase 2006 Active Membership Fees by \$50 (Board of Governors Resolution No.1)
- Accommodate MCLE Programs by Local Bar Associations (House of Delegates Resolution No. 1)
- Teleconference Access to CLEs (House of Delegates Resolution No. 2)
- Post-consumer Recycled Paper Use (House of Delegates Resolution No. 3)

If you have any questions about a financial impact statement, contact Frank Hilton, the chair of the Budget & Finance Committee, at 503-306-5322 or fhh@dunn-carney.com, or Rod Wegener, the bar's Chief Financial Officer, at 503-620-0222 (1-800-452-8260) ext. 313, or rwegener@osbar.org.

Sincerely,

A handwritten signature in black ink that reads "Frank H. Hilton". The signature is written in a cursive, flowing style.

Frank H. Hilton, Chair
Budget & Finance Committee

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

Background

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

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

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

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.

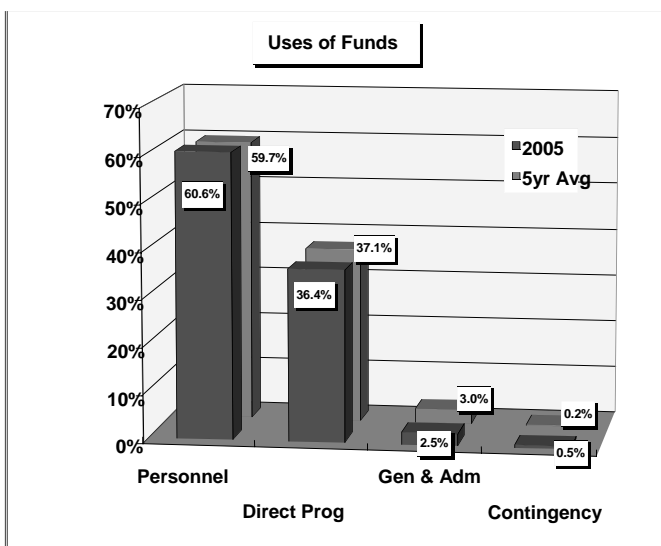
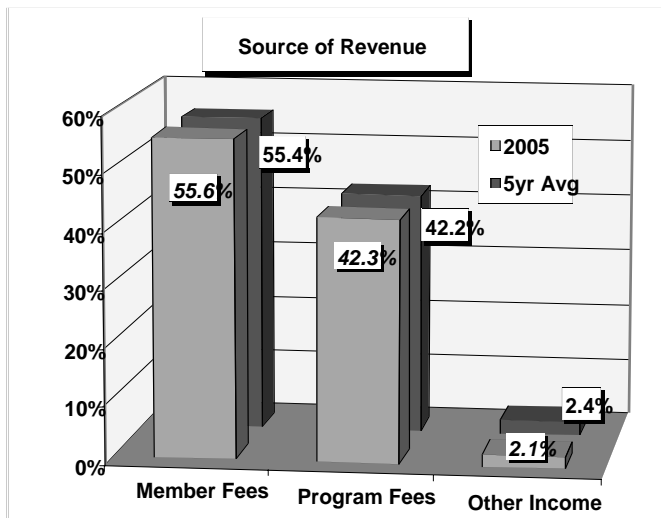
The amount the bar pays for **outside legal services** has increased dramatically in the past five years. By the end of 2005, the average for the last five years is expected to be \$95,000 to \$100,000 annually. These costs have been especially high due to two unique cases. The bar anticipates the need 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

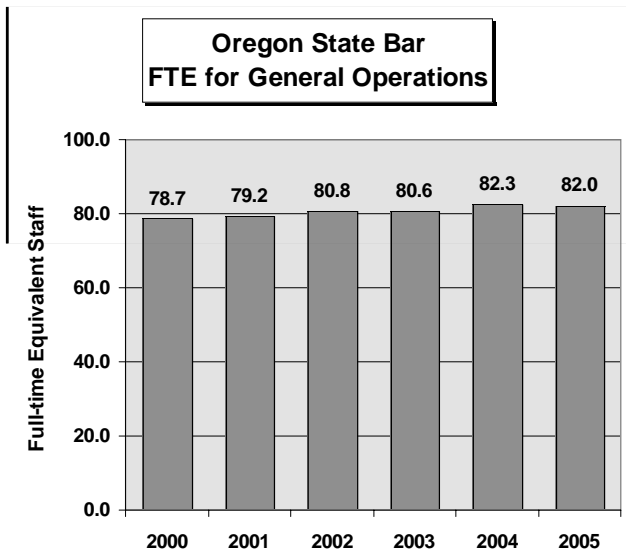
various existing electronic court systems and will review commercial applications in conjunction with the Oregon Judicial Department Technology Committee. The task force is reviewing various court rules and statutes that would require change in the event of electronic docketing and filing, and will issue 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 breadth 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

Financial Impact Statement
Accommodate MCLE Programs by Local Bar Associations
House of Delegates Resolution No. 1

In 2004, there were 4,813 accreditation applications processed by the bar's MCLE department. Of those applications, 122, or 2.5% of all applications, derived from thirteen county bars. The fees paid by those county bars were \$3,030. Multnomah County Bar Association accounted for \$1,440 of that total.

Financial Impact Statement
Teleconference Access to CLEs
House of Delegates Resolution No. 2

The Background with the resolution contained some incomplete statements. Below are two portions of the Background with the answers in **bold** provided by the bar.

Costs associated with participation in OSB sponsored activities include the cost of travel to the CLE. An estimated **43** live CLEs are held in the Portland metro area, **none** in the Willamette Valley, or **7** in the I-5 corridor. **Eighteen percent** of OSB members reside (**practice**) outside of these areas, yet dues are equal for all active members.

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Standard OSB teleconferencing service, without visual, costs **\$10 to upload the program and \$.10/minute/participant**. The OSB sponsors or co-sponsors **50 live CLEs** per year for a total of **268** hours of CLE material.

The one-time conference event and cost described in the Background is the current cost and arrangement with Raindance on a product called WebLite. There has been limited use and success with the product to date. The bar believes the medium provided by

Raindance at this low rate is not the best way to present CLEs and better media are available, but at a higher cost. (The current Raindance web site quotes \$.21 to \$.27 per minute.) The original agreement with Raindance was to provide a medium for meeting attendance via the web to minimize travel and out-of-office time for meeting attendees.

The bar recognizes that web conferencing is a growing medium for attorneys receiving educational seminars. The bar is working on improving a contract with an online provider for expanded services and content for taped presentations. The bar also continues to investigate the most feasible and cost-effective methods to provide "live" presentations via the web to members. The number of vendors providing this service is growing and the bar is exploring the best vendor and technical approach for those services.

Financial Impact Statement
Post-consumer Recycled Paper Use
House of Delegates Resolution No. 3

The bar currently uses 30% post-consumer recycled paper for most of its printed material. This quality is deemed the standard for office environments.

Currently, the bar prints and distributes newsletters for about 15 sections and local bars. Those newsletters generated the printing of approximately 413,000 pages of newsletters in the past twelve months. These newsletters are less than 3% of all printed material distributed by the bar. The newsletters are printed on colored 70-lb, 30% post-consumer recycled paper. The bar bills the sections at a rate determined by number of pages and number of copies printed. The number of newsletter pages printed by the bar is approximately half of what the bar used to print, as sections have moved to distributing their newsletters electronically to save cost and time. To the bar's knowledge, at least one section prints its newsletters at another printing shop, so it can use more than one color ink and a higher quality paper.

At the request of the Environmental & Natural Resources (ENR) Section, the bar purchased 10,000 sheets of 100% post-consumer recycled paper to print the section's newsletters. These sheets print 40,000 pages of newsletter material. The cost of those 10,000 sheets was \$809.76, which was charged to the section. The cost for the same 10,000 sheets in the standard newsletter paper is \$482, or 68% less than the 100% post-consumer recycled paper.

The bar estimates that if the bar were to use only 100% post-consumer recycled paper for all its printed material, the additional annual cost for paper would be \$66,000. (This amount does not include the bar *Bulletin*.) Information from the printing industry indicates that 100% recycled paper also is troublesome for standard copying equipment and high-volume production printers can often require additional cleaning and servicing. In a study on the use of 100% post-consumer recycled paper, one company stated that "(d)ue to environmental issues surrounding the use of additional machine parts, cleaning supplies, additional service trips to their location, paper costs, workflow issues and quality degradation, the customer has chosen not to offer (100% post-consumer) recycled paper at this time."

The additional cost of \$66,000 is only the paper cost. The bar uses a number of contract printers for specialty or high-volume print projects. Contract printers will charge more for print jobs on 100% recycled paper. One vendor used frequently by the bar estimated that the cost of a normal print project outsourced by the bar (white paper with at least two ink colors) would be 59% higher on 100% recycled paper than on the 30% standard currently used.

It is not cost-effective for the bar to print all printed material at the bar center. To do so would require a substantially greater investment in equipment, space, and staff. The \$66,000 additional cost is for paper purchased directly by the bar and for paper used by several contract printers, so there are limited bulk purchasing credits available. Bulk purchases of the 100% recycled paper require additional cutting and storage. The storage life for maximum printing efficiency of the 100% recycled paper is unknown.

The bar can continue to print the newsletters of sections on 100% recycled paper if sections are willing to pay the higher cost to print the newsletter and limit the paper options to two colors. The bar has printed two volumes (1,229 copies) of the ENR Section's newsletter and has experienced no problems with the printing equipment.

There is an active recycling practice at the bar center. Several recycling stations are located throughout the building for staff to dispose of waste paper. The paper at those stations is removed by a recycling vendor at no cost to the bar. The bar's recycling practices reduced the bar's garbage bill by over 50% several years ago.



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