

OREGON STATE BAR  
MEETING OF THE BOARD OF GOVERNORS  
Schedule of Events  
April 3, 2009  
3/24/2009 11:46 AM

Meeting Place      Five Pines Lodge      Phone:      866-974-5900  
1021 Desperado Trail  
Sisters, OR 97759

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Thursday, April 2, 2009



5:30 p.m. – 7:00 p.m.      Casual BOG Dinner  
Brand 33  
Aspen Lakes Golf Course  
16900 Aspen Lakes Dr.  
Sisters, OR  
541-549-4653

Friday, April 3, 2009

7:00 a.m. – 9:30 a.m.      Breakfast



8:00 a.m. – 9:00 a.m.      Member Services Committee (Johnson, Fisher, Gaydos,  
Johnnie, Larson, Piucci, Wright) \*  
Room – TBD

9:00 a.m. – 9:30 a.m.      Appointments Committee (Johnnie, DiIaconi, Evans, Fisher,  
Greene, Larson, Piucci, Wright)  
Room -

9:30 a.m. – 10:30 a.m.	<b>Public Affairs Committee</b> (Piucci, Fisher, Garcia, Gaydos, Johnnie, Johnson, Vieira) ** Room – TBD
9:30 a.m. – 10:00 a.m.	<b>Policy and Governance Committee</b> (Evans, DiIaconi, Greene, Kent, Larson, Matsumonji, Naucler) ** Room – TBD
10:30 a.m. – 11:00 a.m.	<b>Access to Justice Committee</b> (Wright, Garcia, Johnnie, Lord, Matsumonji, Naucler, Vieira) Room – TBD
11:00 a.m. – 12:00 p.m.	<b>Budget and Finance Committee</b> (Green, Evans, Garcia, Kent, Lord, Naucler) * Room – TBD

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\* and \*\* indicate committees which have no overlap and can meet at the same time.

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<b>NO MEETING</b>	<b>Executive Director Evaluation Committee</b> (Naucler, DiIaconi, Evans, Gaydos, Johnson)
<b>NO MEETING</b>	<b>Appellate Screening Committee</b> (Kent, DiIaconi, Garcia, Johnnie, Johnson, Larson, Matsumonji)
<b>NO MEETING</b>	<b>Public Member Selection Committee</b> (Vieira, Garcia, Lord, Matsumonji, Naucler)

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12:00 p.m. – 1:00 p.m.	<b>Lunch</b> Joint Lunch with PLF Room – TBD
12:00 p.m. – 1:00 p.m.	<b>Joint PLF and BOG Meeting</b> Room - TBD
1:00 p.m. – 5:00 p.m.	<b>Board Meeting</b> Room - TBD



5:30 p.m. 7:00 p.m.

Dinner  
Three Creeks Brewing Company  
721 Desperado Court  
Sisters, OR 97759  
541-549-1963

Business Attire



Casual Attire



Let's Dress Up



(.)

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**Oregon State Bar  
Meeting of the Board of Governors  
April 3, 2009  
Open Session Agenda**

*The Open Session Meeting of the Oregon State Bar Board of Governors will begin at 12:00 p.m. on April 3, 2009, and continue to the morning of April 3, 2009, if necessary to complete business; however, the following agenda is not a definitive indication of the exact order in which items will appear before the board. Any item on the agenda may be presented to the board at any given time during the board meeting.*

**Friday, April 3, 2009**

- |    |   |               |                  |
|----|---|---------------|------------------|
| 1. | Call to Order/Finalization of the Agenda  | Action        |                  |
|    | 12:00 p.m. -1:00 p.m.   |               |                  |
| 2. | BOG/PLF Joint Meeting   | Inform        |                  |
|    | 1:00 p.m.   |               |                  |
| 3. | Professional Liability Fund [Mr. Zarov]   |               |                  |
|    | A. General Report   | Inform        | Ira              |
|    | B. Budget Strategies - 2010 or 2011   | Inform        | 1                |
|    | ➤ <i>Joint discussion between BOG and PLF boards regarding member fee and PLF assessment increases.</i> |               |                  |
|    | 1:20 p.m.   |               |                  |
| 4. | Work Session - Legal Services   |               |                  |
|    | 1:50 p.m.   |               |                  |
| 5. | Report of Officers  |               |                  |
|    | A. Report of the President [Mr. Gaydos]   |               |                  |
|    | 1. Miscellaneous  | Inform        |                  |
|    | 2. <i>President's Report</i>  | <i>Inform</i> | <i>1.A - 1.B</i> |
|    | B. Report of the President-elect [Ms. Evans]  |               |                  |
|    | 1. Present-elect's Activities   | Inform        | 3                |
|    | 2. Miscellaneous  | Inform        |                  |
|    | C. Report of the Executive Director [Ms. Schmid]  |               |                  |

D. Oregon New Lawyers Division [Mr. Williamson]

- |    |                      |        |   |
|----|----------------------|--------|---|
| 1. | ONLD Report          | Inform | 5 |
| 2. | ONLD Master Calendar | Inform | 6 |

2:00 p.m.

6. Board Members' Reports Inform

- *Board members will report briefly on news from their region or contacts with sections, committees, or/and other bar entities.*

2:20 p.m.

7. Special Appearances

A. Warm Springs Tribal Court

- |    |   |        |  |
|----|---|--------|--|
| 1. | General Information Regarding the Court | Inform |  |
|----|---|--------|--|
- *Chief Judge Anita Jackson will speak to the board.*

2:35 p.m.

B. Modest Means Program Changes Action

3:05 p.m.

8. BOG Committees, Special Committees, Task Forces and Study Groups

A. Budget and Finance Committee [Mr. Greene]

- |    |                                     |        |      |
|----|-------------------------------------|--------|------|
| 1. | OSB Investment Portfolio and Policy | Inform | 7-10 |
|----|-------------------------------------|--------|------|
- *Review and consider possible changes to the bar's investment portfolio*
- |    |                   |  |  |
|----|-------------------|--|--|
| 2. | Budget Strategies |  |  |
|----|-------------------|--|--|
- *Review any issues remaining after discussion with PLF.*

B. Policy and Governance Committee [Ms. Evans]

3:25 p.m.

1. BOG Region Reconfiguration Action 11-22
  - *The Committee will make a recommendation regarding implementation of new BOG regions.*
2. Reporting Period after Reinstatement Action 23-25
  - *Consider amending MCLE Rule 3.7 to clarify reporting obligations.*

3:40 p.m.

C. Public Affairs Committee [Mr. Piucci]

1. Update on 2009 Legislative Session Inform 26.1 - 26.34
  - *Status update on political activities, legislative session, OJD budget, and OSB Law Improvement package.*

D. Public Member Selection [Mr. Vieira]

1. Public Member Recruitment Inform 27-30
  - *Overview of BOG public member recruitment for 2009 and request for assistance from BOG members*

9. *E. Member Services*  
Consent Agenda 1. *Section Grant Proposals* Action Action 30.A-30.B pink
10. Default Agenda Inform blue
11. Closed Sessions

4:00 p.m.

- A. Judicial Session (pursuant to ORS 192.690(1) Reinstatements Discuss lavender agenda  
Action
- B. Executive Session (pursuant to ORS 192.660(1) (f) and (h) General Counsel/UPL Report Discuss green agenda  
Action

12. **Good of the Order (Non-action comments, information and notice of need for possible future board action)**

- A. Update Regarding Advertising Task Force Inform
- B. Update Regarding ORPCs Comments Inform



**Oregon State Bar**  
**Meeting of the Board of Governors**  
April 3, 2009  
Consent Agenda

- |    |                       |   |                   |
|----|-----------------------|---|-------------------|
| 9. | <b>Consent Agenda</b> | <b>Action</b>   | <b>pink</b>       |
|    | A.                    |   |                   |
|    | 1.                    | Minutes of Open Session – February 6, 2009            | Action      31-36 |
|    | 2.                    | Minutes of Judicial Proceedings –<br>February 6, 2009 | Action      37-39 |
|    | 3.                    | Minutes of Closed Session – February 6, 2009          | Action      41    |
|    | B.                    |   |                   |
|    | 1.                    | Various Appointments                                  | Handout           |



Oregon State Bar  
 Meeting of the Board of Governors  
 April 3, 2009  
 Default Agenda

10.	Default Agenda	Inform	blue
	A. President		
	1. Invitation – Lewis & Clark Law School 2 <sup>nd</sup> Annual Black Law Student Association Roberta Phillip Scholarship Reception	Inform	43-44
	➤ <i>Invitation attached. BOG members in Portland, Saturday, April 4, 2009 are encouraged to attend.</i>		
	2. Do You Believe in Justice?	Inform	45
	B. Executive Director		
	1. Operations Report	Inform	Handout 46-46.5
	2. Status of Actions from Past Board Meetings	Inform	Handout 46.7
	C. Disciplinary Counsel		
	1. Disciplinary Counsel Annual Report	Inform	47-68
	D. Client Assistance Office		
	1. CAO Annual Report	Inform	Handout
	E. ABA Midyear Meeting House of Delegates Report	Inform	69-94
	➤ <i>The board co-sponsored Resolution 109 regarding screening to avoid conflicts. Resolution 109 was approved with a modest amendment after a robust discussion.</i>		
	F. BOG Handbook Update	Inform	85-86
	➤ <i>For your convenience, changes are highlighted in grey.</i>		
	G. HOD Resolutions Submitted by Danny Lang		
	1. Priority Placement of HOD Member Delegate Resolutions upon HOD Agenda	Inform	87

2.	ORCP 54E – Dismissal of Actions; Compromise Inform		88
3.	Encouraging Fair Compensation for State Senators and Representatives	Inform	89
4.	Notice Pleading	Inform	90
5.	Paralegal Representation in FED Cases	Inform	91
6.	MCLE Simplified Reporting Form	Inform	92
H.	Access to Justice Committee		
1.	Minutes – February 6, 2009	Inform	93-94
2.	Minutes – March 6, 2009	Inform	95
I.	Budget and Finance Committee		
1.	Minutes – March 6, 2009	Inform	97-98
J.	2. <i>Financial SSmts Summary</i> Member Services Committee	<i>Inform</i>	<i>98.1- 98.4</i>
1.	Minutes – February 5, 2009	Inform	99-100
2.	Minutes – March 6, 2009	Inform	101-102
K.	Policy and Governance Committee		
1.	Minutes – February 5, 2009	Inform	103
2.	Minutes – March 6, 2009	Inform	104
L.	Public Affairs Committee		
1.	Minutes – February 5, 2009	Inform	105
2.	Minutes – March 6, 2009	Inform	106
M.	CSF Claims Report	Inform	107-109

# OREGON STATE BAR

## Board of Governors Agenda

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Meeting Date: April 6, 2009  
Memo Date: March 20, 2009  
From: Ward Greene, chair, Budget & Finance Committee  
Re: Member Fee Increase Strategy

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### Action Recommended

None required.

### Background

The five-year forecast developed with the 2009 budget projected an active member fee increase of \$50.00 in 2011, although there has been some discussion on the committee level about an increase in 2010. The PLF also is considering an assessment increase in either 2010 or 2011.

In the last thirty years, the bar and PLF have had fee and assessment increases in the same year in 1985 (\$25 and \$700 respectively), 1993 (\$36 and \$300), and 2003 (\$26 and \$400). There were some years where the member fee increased and the PLF assessment decreased. However, in these economic times, there is reluctance now to have both increases in the same year. The last member fee increase was \$50 in 2006. The PLF assessment last increased from \$3,000 to \$3,200 in 2007.

The board of the PLF will meet with the BOG at the April 6 meeting, and although no decision needs to be made now, both boards should discuss each other's plans for 2010 and 2011 to assure a future decision on a fee/assessment increase is made with the knowledge of the other board.

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## PRESIDENT'S REPORT

<u>Date:</u>	<u>Purpose:</u>
12/4/2008	Met with Frank Garcia and representatives of Oregon Women Lawyers. Later in the afternoon met with Akira Heshiki of the Oregon Women Minority Lawyer's Association and Judge Janice Wilson. Attended the OSB Awards Dinner.
12/11/2008	Attended PLF Meeting at Bar Center. Met with Frank Garcia, Margaret Robinson, Kim Ybarra-Cole and Teresa Schmid regarding AAC issues, then attended PLF dinner.
12/16/2008	Met with Chief Justice DeMuniz, Susan Grabe, Rick Hugler and Teresa Schmid. Drove to Portland to participate in the Oregon State Bar Leadership Program and Legislative Tips Program.
1/9/2009	Attended committee meetings.
1/10/2009	Attended Affirmative Action and Diversity section planning meeting.
1/15/2009	Met for breakfast with Teresa Schmid, Kim Ybarra-Cole and Phyllis Lee regarding Affirmative Action Committee. Met with DeMuniz, then spoke at OMLA quarterly meeting. Met with Teresa Schmid, Anna Zannoli, Karen Lee and Kay Pulju regarding CLE issues and effective use of the Internet.
1/22/2009	Attended the Marion County awards and pro bono banquet.
1/28/2009	Attended the OMLA open house at Governor's mansion.
2/10 - 2/16/2009	Attended NABE/NCBP/ABA convention in Boston, Mass.
2/19/2009	Attended Uniting to Understand Racism awards dinner in Portland.
2/20/2009	Attended Jackson County Bar Campaign for Equal Justice dinner in Medford.
2/24/2009	Attended reception for Judge Ann Aiken at University of Oregon law school to celebrate her appointment as Chief Judge of US District Court.
2/27/2009	Drove to Newport, Oregon to participate in sustainability CLE and social hour with Lincoln County lawyers. Teresa Schmid also attended.

3/3/2009	Drove to Portland to attend the CEJ annual awards luncheon at Governor Hotel. Later met with Akira Heshiki of Oregon Women Lawyers, Teresa Schmid, Kim Ybarra-Cole and Judge Janice Wilson.
3/5/2009	Attended Multnomah County Bar Association Young Lawyer's Summit.
3/6/2009	Had breakfast with Ann Fisher to discuss Urban Rural task force. Attended committee meetings at Bar Center. Met with representatives of OWLs, including Susan O'Toole and Linda Tomasi. Attended BOG committee meetings.
3/11/09	Met with Steve Pucci, Susan Grabe, Chief Justice DeMuniz and representatives of the various Oregon trial bar organizations.
3/13/09	Attended the Professionals in Commission meeting at the Oregon State Bar and the OWLS Robert Diaz awards dinner at the Governor Hotel.
3/14/09	Attended and judged the finals of the high school mock trial competition which was won by West Linn High School. West Salem High School placed second, Lincoln High School third and St. Mary's Academy placed fourth.
3/25-30/09	Attended the Western States Bar Conference.



# OREGON STATE BAR

## Board of Governors Agenda

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Meeting Date: April 3, 2009  
Memo Date: March 19, 2009  
From: Teresa Wenzel, Ext. 386  
Re: President-elect's Activities

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In an effort to keep the board informed of her activities, Ms. Evans includes below a list of events in which she has participated as a representative of the Oregon State Bar.

The National Conference of Bar Presidents in Boston on February 11<sup>th</sup> through 14<sup>th</sup>  
The PLF Board Meeting on February 20<sup>th</sup>

The Oregon Hispanic Bar Association Awards Dinner on February 20<sup>th</sup>, honoring  
Danny Santos

The Bar Leadership Institute in Chicago on March 11<sup>th</sup> through 14<sup>th</sup> (and got to see  
the Chicago River dyed green in honor of their St. Patrick's Day parade—Michael  
and I and 400,000 others!)

Lobbied Senator Peter Courtney and Rep. Brian Clem on March 17<sup>th</sup> at the Capitol,  
supporting the Bar's three main focal points: funding for the judiciary as an  
independent third branch of government, support for legal aid, and dealing with court  
facilities.

Western States Bar Conference in Hawaii

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# OREGON STATE BAR

## Board of Governors Agenda

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Meeting Date: April 3, 2009  
Memo Date: March 19, 2009  
From: Ross Williamson, Oregon New Lawyers Division Chair  
Re: ONLD Report

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Since the last BOG meeting the ONLD meet twice to conduct business. Frank Garcia attended the February meeting to formulate plans on how the ONLD can work with the AAP this year and in the future. In addition to the ONLD's participation in the Employment Retreat, we also plan to continue our sponsorship and participation in BOWLIO and we are likely to participate in the OLIO retreat this August.

In February, the ONLD also voted to sponsor the MBA's Young Lawyers Summit. Several members of the executive committee attended the March event, which sparked the creation of a task force to examine the findings from the various futures conferences held recently by the OSB, the MBA and the Washington State Bar Association's upcoming conference.

In March, the Law Related Education Subcommittee finalized and distributed the High School Essay Contest materials for this year. The CLE Subcommittee held their second of nine CLE brown bag programs featuring presenter Michael Silvey who spoke on real estate law. The Law School Outreach Subcommittee held panel presentations at each of the law schools to give students an overview on how to study for the bar exam. The Pro Bono Subcommittee continues to work on updating the Redbook, which details pro bono opportunities throughout the state. Additionally, the Member Services Subcommittee made more than 90 mentor program matches for this year.

Three members of the executive committee attended the ABA mid-year meeting along with two MBA Young Lawyer Section board members. The trip offered several opportunities to network and learn from other young lawyer groups throughout the country. Time spent at ABA meetings connecting with other representatives is valuable to the ONLD and continues to strengthen our programs of offerings to members.

A special thank you to Ward Greene who participating in the career development and rainmaking dinner on April 1. The first time event, which paired new lawyers and senior law firm partners together over dinner, was a success with more than 70 participants.

# 2009 ONLD Master Calendar

6022

Last updated March 20, 2009

<u>Date</u>	<u>Time</u>	<u>Event</u>	<u>Location</u>
April 1	5:30 p.m.	Growing Your Practice Dinner	Hotel Monaco
April 3	All Day	BOG meeting	Sisters
April 10	5:30 p.m.	CLE- Ethics and social	Bend
April 11	9:00 a.m.	Exec. Meeting	Bend
April 16	Noon	CLE- Child Abuse Reporting	Multnomah County Courthouse
May 16	9:30 a.m.	Excc. Meeting	OSB
May 21	Noon	CLE- Direct and Cross Examination	Multnomah County Courthouse
May 21	2:30 p.m.	Swearing In Ceremony Reception	Willamette University
June 12	All Day	BOG meeting	OSB
June 18	Noon	CLE- Wills and Trusts	Multnomah County Courthouse
June 20	9:00 a.m.	Exec. Meeting	Newport
June 20	1:00 p.m. ?	Public Service Activity	Newport
July 16	Noon	CLE- Intellectual Property	Multnomah County Courthouse
July 25	All Day	Rafting and camping trip	Deschutes River
August 6-9	Ongoing	OLIO Retreat- AAP	Mt. Bachelor Village Resort
August 18-23	Ongoing	Lane County Fair	Lane County Fair Grounds
August 21	Noon	CLE- Professionalism	Multnomah County Courthouse
August 21	5:30 p.m. ?	CLE- Campaign for Equal Justice	Medford
August 22	9:00 a.m.	Exec. Meeting	Ashland
August 28	All Day	BOG meeting	OSB
September 17	All Day	Constitution Day	Various classrooms
September 17	Noon	CLE- Jury Selection	Multnomah County Courthouse
Sept. 11	5:30 p.m. ?	CLE- topic TBD and social	Eugene
Sept. 12	9:00 a.m.	Exec. Meeting	Eugene
October 8	2:30 p.m.	Swearing In Ceremony Reception	Willamette University
October 17	TBD	Joint meeting with the MBA YLS, WYLD, and Clark County Young Lawyers	OSB
October 18	TBD	Reciprocity CLE	OSB
October 25-31	Ongoing	Pro Bono Week	Various
October 30-31	All Day	BOG retreat	Gold Beach
November 6	5:30 p.m.	Annual Meeting	Portland
November 7	All Day	SuperSaturday	OSB
Novcmber 19	Noon	CLE- Land Use	Multnomah County Courthouse

Bold indicates an update since the last version **6**

# OREGON STATE BAR

## Board of Governors Agenda

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Meeting Date: April 6, 2009  
Memo Date: March 20, 2009  
From: Ward Greene, chair, Budget & Finance Committee  
Re: OSB Investment Portfolio and Policy

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### Action Recommended

A recommendation from the committee to the board may be forthcoming at the meeting.

### Background

At its March 6 meeting, the Budget & Finance Committee discussed the bar's existing investment policy and portfolio. Mr. Kent raised concerns about the risk the bar is taking by holding its short term funds in the Local Government Investment Pool (LGIP) and a significant portion of the fixed income portfolio in corporate indebtedness. At February 28, the LGIP held 45% of its portfolio in corporate indebtedness. The bar's investment policy permits its entire investment portfolio to be invested in the LGIP.

The LGIP is part of the Oregon Short Term Fund (OSTF) managed by the Office of the State Treasurer. The LGIP has been used by the bar for many years as the depository for most of the bar membership fees payments, and then each month funds are withdrawn to fund bar operations. The bar earns interest which is paid monthly. Currently that rate is one of the lowest in many years at 1.4%.

The committee debated if the bar is too heavily invested in corporate indebtedness because of its holdings in the LGIP and the fixed income account. The Fixed Income account is part of the bar's reserve investments and currently consists of sixteen corporate notes/bonds and two federal agencies of \$100,000 each. The committee's most immediate concern was the LGIP believing the LGIP is too heavily invested in corporate indebtedness due to the unstable economy and with the LGIP's significant decline in earnings in September due to the failure of Lehman Brothers, of which the OSTF had a substantial investment.

The committee agreed it should seek professional assessment of the portfolio and Mr. Kent and Mr. Wegener met with a representative of R.V. Kuhns on March 10. On the basis of that visit, Mr. Kent sent an email report to the committee suggesting the committee should evaluate the "risk vs. return" on the bar's LGIP holdings. Mr. Wegener prepared a memo comparing those factors and the committee was to meet via conference call to evaluate the options. The committee will meet again prior to the board meeting and present its findings to the board.

For reference, following this memo is a copy of the bar's investment policy and a summary of the bar's investment portfolio for the most recent three months.

## **Section 7.3 Reserve Policy**

### ***Subsection 7.300 Purpose***

The Bar maintains separate funds for the general and designated operations of the Bar and for its financial welfare. The separate funds are the General Fund, the Client Security Fund, the Affirmative Action Program, Legal Services and all sections funds. A distinct and separate fund balance will be maintained for each fund.

### ***Subsection 7.301 General Fund***

The General Fund will maintain cash reserves sufficient to assure fulfillment of obligations to the membership and provide funds for unforeseen future contingencies. The reserves will be used to sustain an acceptable level of operation and continue service to the membership if the standard level of operations is interrupted by unforeseen events. It is also used to offset the effects of an operational reversal until expenditures can be adjusted and to fund specific future capital enhancements and improvements in the operation of the Bar.

### ***Subsection 7.302 Reserve Funds***

Separate reserve funds will be established and maintained for the general operating fund and the Board-authorized capital reserve fund, defined as follows:

(a) General Operating Reserve Fund: Established and maintained within the annual budget to assure continued operation of the Bar in the event of a non-dues revenue reversal or a catastrophic event.

(b) Capital Reserve Fund: established by policy decisions based on predetermined activities to replace, replenish or preserve capital assets or capital improvements that are purchased or made infrequently, to meet current regulatory requirements or provide enhanced services to the membership. Capital reserve items are capital assets that cost more than \$5,000 or items whose implementation or purchase extend into more than one fiscal year or whose purchase is planned for a future year.

(c) Each fund will maintain a separate and distinct level of cash reserves, although the reserve funds may be merged for investment purposes to obtain a higher return on the total funds invested. The operating reserve of the General Fund will be a minimum of \$500,000. The capital reserve level will be determined by the Board based on predetermined activities.

## **Section 7.4 Investment Policy**

### ***Subsection 7.400 Purpose***

This investment policy is established to provide direction and limits for the Bar's investment manager in investing all cash assets held by the Bar. The funds are to be invested in a manner that ensures the protection of the Bar's cash assets and provides a dependable source of operating revenue. The investment objectives are in order of importance: to ensure the safety of the assets, to ensure sufficient liquidity and to obtain the highest possible rate of return.

### ***Subsection 7.401 Investment Management***

The Executive Director or the Chief Financial Officer is authorized and directed to deposit, sell, convert or withdraw cash on deposit in excess of that required for current operations and to invest those funds in accordance with the Bar's investment policy using expert advice and assistance as he or she may require. The Bar will maintain a list of all authorized institutions that are approved for investment purposes. The Budget & Finance Committee will review the investment portfolio at least annually, using expert advice and assistance as it may require.

#### ***Subsection 7.402 Approved Investments***

Investments will be limited to the following obligations and subject to the portfolio limitations as to issuer:

- (a) The State of Oregon Local Government Investment Pool (LGIP) no percentage limit for this Issuer.
- (b) U.S. Treasury obligations - no percentage limitation for this issuer.
- (c) Federal Agency Obligations - each Issuer is limited to \$250,000, but not to exceed 25 percent of total invested assets.
- (d) U.S. Corporate Bond or Note - Moody "A" or Standard & Poor "A" or better - each issuer limited to \$100,000.
- (e) Commercial Paper - Moody "P-1" or Standard & Poor "A-1" or better -each issuer limited to \$100,000.
- (f) Mutual funds that commingle one or more of the approved types of investments.
- (g) Mutual funds of U.S. and foreign equities and not including individual stock ownership.

#### ***Subsection 7.403 Limitations***

In addition to the percentage limitation to a single Issuer, no more than 45 percent of the total investment portfolio will be invested in a combination of U.S. Corporate Bonds or Notes, Commercial Paper or non-equity mutual funds. The entire investment portfolio may be invested in any combination of the Local Government Investment Pool, U.S. Treasury obligations or federal agency obligations. The maturities of the investment obligations will be the investment manager's estimate of the Bar's cash needs, subject to the specific fund liquidity requirements. No maturity period will exceed 84 months. No more than 45 percent of the total long-term investments may be in equities. Up to five percent of the total long-term investments may be in international equities. "Total long-term investments" excludes investments intended to be held for one year or less. Mutual fund equity funds will be chosen for long-term growth, reserve fund appreciation, stability and portfolio diversification and not for short-term appreciation or trading profits.

#### ***Subsection 7.404 Prudent Person Standard***

The standard of prudence to be used by the investment manager in managing the overall portfolio will be the prudent investor rule, which states: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived."

# Oregon State Bar

## Investment Portfolio

Month Ending	December 31, 2009					
Investment Type	Cost	Market Value	% of All Funds	Short Term	Long Term	% of LT Funds
LGIP	\$ 1,867,723	\$ 1,867,723	36.6%	\$ 1,867,723	-	0.0%
Money Market Account	-	-	-	-	1,300,000	40.2%
Fixed Income	1,309,997	1,300,000	25.5%	-	1,935,646	59.8%
Mutual Funds - Equities	2,712,555	1,935,646	37.9%	-	-	-
<b>Totals</b>	<b>\$ 5,890,275</b>	<b>\$ 5,103,369</b>	<b>100.0%</b>	<b>\$ 1,867,723</b>	<b>\$ 3,235,646</b>	<b>100.0%</b>

Month Ending	January 31, 2009					
Investment Type	Cost	Market Value	% of All Funds	Short Term	Long Term	% of LT Funds
LGIP	\$ 5,281,856	\$ 5,281,656	59.2%	\$ 4,881,656	\$ 400,000	11.5%
Money Market Account	575,061	575,061	6.4%	575,061	-	0.0%
Fixed Income	1,309,997	1,300,000	14.6%	-	1,300,000	37.5%
Mutual Funds - Equities	2,712,555	1,769,445	19.8%	-	1,769,445	51.0%
<b>Totals</b>	<b>\$ 9,879,269</b>	<b>\$ 8,926,162</b>	<b>100.0%</b>	<b>\$ 5,456,717</b>	<b>\$ 3,469,445</b>	<b>100.0%</b>

Month Ending	February 28, 2009					
Investment Type	Cost	Market Value	% of All Funds	Short Term	Long Term	% of LT Funds
LGIP	\$ 5,017,169	\$ 5,017,169	58.5%	\$ 4,617,169	\$ 400,000	11.2%
Money Market Account	100,105	100,105	1.1%	100,105	-	0.0%
Fixed Income	1,826,383	1,800,000	21.0%	300,000	1,500,000	42.2%
Mutual Funds - Equities	2,712,555	1,655,857	19.3%	-	1,655,857	46.6%
<b>Totals</b>	<b>\$ 9,656,212</b>	<b>\$ 8,573,131</b>	<b>100.0%</b>	<b>\$ 5,017,274</b>	<b>\$ 3,555,857</b>	<b>100.0%</b>

**Notes:**

- (1) "Cost" is the cost of funds invested plus all reinvested gains and income, except for "Fixed Income."
- (2) "Cost" for Fixed Income includes premium or discount; "Market Value" is Par Value.
- (3) "Short Term" are the estimated amount of funds needed from the month of this report until the first flow of funds for fee payments in December. Estimate determined by CFO upon review of normal cash flow records.
- (4) "Long Term" are funds not needed for operations within the next twelve months.
- (5) The "Money Market Account" is functional as a cash flow account, and not an investment account.
- (6) The balances of the LGIP and Money Market Account can be influenced at month end by transfers to/from the checking account.
- (7) "Mutual Fund - Equities" are the Vanguard 500 Index and Leazer International. The market value of the mutual funds in international equities was:
 

12/31/2008	\$225,222	or	7.0%	of all long term investments.
1/31/2009	\$262,912	or	5.6%	of all long term investments.
2/28/2009	\$164,427	or	5.2%	of all long term investments.

prepared 3/2/2009



# OREGON STATE BAR

## Board of Governors Agenda

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Meeting Date: April 3, 2009  
Memo Date: March 20, 2009  
From: Kathleen Evans, Chair, Policy and Governance Committee  
Re: Issues Surrounding Reconfiguration of BOG Regions

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### Committee Motion

The Committee will have a motion for the BOG regarding designation of an effective date for the new regional configuration and how to address the consequences of the change.

### Background

Prior to 1995, BOG regions were established by statute. In 1995, ORS 9.025(2) was amended to allow the regions to be established by the BOG. Representation of board members to attorney population is to be equal among the regions to the extent reasonably possible. The BOG is required to review the regional configuration at least once every 10 years and make appropriate adjustments to maintain the best possible equality of representation.

The first reconfiguration or "redistricting" under the new statutory language was effected in 1997.<sup>1</sup> (See Map #1 attached.) Although it was important to the BOG and the membership to have regions comprised of entire and contiguous counties, achieving equal representation with the existing number of board members made that impossible. While not perfect, the 1997 configuration was the best of several options and improved the representational equality.

In 2007, the BOG began its first ten-year review of the regions. After a lengthy study and consideration of several options, the Policy & Governance Committee proposed a configuration that depended on adding two lawyer members to the BOG. The new plan changed the boundaries of several existing regions and created a new Region 7. (See Map #2 and Proposed Redistricting table attached.) The P&G proposal was laid out for the membership at the 2007 HOD meeting and, in view of the membership's tacit approval, the BOG adopted the plan in February 2008 with the expectation that it would be implemented for the BOG terms beginning January 1, 2010. (See BOG Positions chart for a graphic representation of the new configuration.)

Legislation to amend the Bar Act to add the two new board members was introduced for the 2009 session and is pending. Out of concern about the ability to recruit candidates

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<sup>1</sup> The 1995 legislation became effective on January 1, 1996, but it took until mid-1997 for the BOG to decide on a configuration plan. The BOG made it effective at the end of the September 1997 Annual Meeting so that it would govern elections for the BOG terms beginning in September 1998 (this was before the BOG switched to calendar year terms).

for positions that didn't yet exist, an emergency clause was included so that the amended Bar Act would be effective on signature by the Governor, at or about the time that BOG nominating petitions would be due.<sup>2</sup>

### Impact of Implementation on the BOG

In its discussions about implementing the new regional configuration, the Policy and Governance Committee identified three concerns:

- Because Klamath County will move from Region 1 to Region 3 and Linn County will move from Region 3 to Region 6 under the new plan, there is a question about whether both Barbara DiIaconi and Mitzi Naucier should be deemed disqualified from their positions when the new plan is effective.
- If Ms. DiIaconi and Ms. Naucier must be replaced, there will be eight new board members taking office on January 1, 2010.<sup>3</sup> Committee members discussed the wisdom of having such a high turnover of BOG members during a time that the bar is dealing with unprecedented financial concerns and when the Executive Director will have only one year of service at the bar.
- The addition of two new board members will increase the costs for BOG meetings during a period when the BOG is working hard to contain expenses. (The annual expense for a BOG member is approximately \$5000/year.) Incorporating the additional expense should be easier in 2011.

To assist the Committee in its consideration of these issues, staff unearthed records from the 1997 reconfiguration. While three of the regions were affected by moving counties in or out, only one sitting BOG member, Kevin Strever, ended up outside his new region. (His office was in Lincoln County, which moved from Region 4 to Region 3.) He had one year left in his term and was slated to serve as president in his last year on the board. For several reasons, the BOG concluded that it didn't need to replace Mr. Strever.

First, this problem had been anticipated during the 1995 Bar Act amendments and the bill included a provision that any member serving on the effective date of the amendments "shall continue to serve for the remainder of the member's term." (Unfortunately, the language was not added to the statutes so that it applies each time a change is made.) Second, ORS 9.025(5) provides that the term of an elected BOG member terminates "when the member discontinues to maintain the principal office of practice in the region in which it was maintained at the time of the...election of the member...." Third, the BOG concluded that while Region 4 would technically be without a BOG representative for a year, the members of Region 4 shouldn't feel disenfranchised, since they had elected Mr. Strever.

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<sup>2</sup> Nominating petitions are due May 12, 2009, ballots are distributed on October 5 and counted on October 19, 2009. The length of time between submission of nominating petitions and distributing ballots is to allow for challenges to candidates whose service would violate the separation of powers doctrine.

<sup>3</sup> Three lawyer members from existing regions, one public member, the two additional lawyer members, and the Region 1 and 3 replacements.

Even though we don't have the "savings clause" in our 2009 bill, the second and third prongs of the BOG's 1997 analysis can apply here. The plain language of ORS 9.025(5) terminates a BOG member's term when the *member moves his or her office*. Neither Ms. DiIaconi or Ms. Naucler is moving office, and thus are not disqualified from continuing to serving on the BOG. While Regions 1 and 3 will technically be without a BOG member during the remainder of their terms, the members of those regions can take comfort in the fact that their elected representative continues to serve and, presumably, retains a kinship to the former regions from which they came.

On the other hand, Mr. Strever had only one year left in his term, while Ms. Naucler and Ms. DiIaconi will have three if the new configuration is implemented for January 2010 and two if implementation is deferred to January 2011. Moreover, it can be argued that the intent of ORS 9.025(5) is to ensure that all BOG regions have a representative. Members (many of whom either don't recall or weren't affected by the 1997 reconfiguration) might well question why the BOG would allow Regions 1 and 3 to be without elected representatives for two or three years.<sup>4</sup> (Actually, new Region 3 will have a representative, just not the one they elected; new Region 6 will have three representatives and the former Region 3 members in Benton and Linn Counties in new Region 6 will continue to be represented by the person they elected.)

Regardless of whether Ms. DiIaconi and Ms. Naucler serve out their terms, there is also the issue of when to add the two new lawyer members. The Committee recognized that passage of the pending amendments with the emergency clause making the changes effective in April or May 2009 might suggest that the BOG was compelled to add the new members right away and implement the new configuration for 2010.<sup>5</sup> President Gaydos indicated to the Committee that he didn't believe the emergency clause had ever been discussed by the board and he authorized Susan Grabe to submit an amendment immediately to delete the emergency clause, which has been done.<sup>6</sup> Without the emergency clause, the statutory addition of two new BOG members will be effective January 1, 2010.

An unexplained delay in adding those new members might raise questions and be subject to challenge. However, delaying the implementation so as to have an orderly transition with as little disruption to the BOG as possible is a reasonable rationale. (Note that in 1997 the effective date was 21 months after the effective date of the 1995 legislation, but due principally to the fact that the planning didn't begin until after the effective date).

One additional consideration is the language of ORS 9.025(3): "Members of the board of governors may be elected only by the active members of the Oregon State Bar who maintain their principal offices in the regions established by the board." A narrow reading of

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<sup>4</sup> Note, too, that if the term of Ms. DiIaconi and Ms. Naucler are deemed to terminate on January 1, 2011, the only eligible candidate for president-elect (chosen in November 2010) will be Steve Larson.

<sup>5</sup> As amended, ORS 9.025(1) will provide that "[t]he Oregon State Bar shall be governed by a board of governors consisting of 18 members."

<sup>6</sup> Deferring this decision to the April board meeting risked additional delay in the bill's passage and the possibility that it might not be approved before the end of the session.

this provision might suggest that candidates and voting members must be in existing regions (i.e., both the candidate and the voters must be “in the region”). If so, it would require that the BOG implement its new regional configuration on or about May in order to validly elect BOG members for terms beginning the following January. Otherwise, for instance, there would be no Region 7 candidates or voting members. This was likely the rationale for the BOG choosing September as the effective date of its 1997 plan, because the next BOG election process began with nominations due in November 1997.

On the other hand, the language of ORS 9.025(3) can be read more broadly to mean nothing more than that BOG representatives must be elected by members in the same region. Under that more generous reading, the BOG can declare the effective date of the new regional configuration to the beginning of a calendar year, but hold elections in the prior year based on the future regional configuration.

#### **Impact of Implementation on the HOD**

Any change in the BOG regions also affects the HOD,<sup>7</sup> whose elected delegates are chosen from the BOG regions (plus an “out of state region”). The same issues arise: when to do it and how to handle the terms of members who find themselves “out of region” after the implementation.

Similar to ORS 9.025(3), ORS 9.136(5) provides that: “A member who maintains a principal office in one of the regions established by ORS 9.025 may vote for delegates from the region where the member maintains the office.” As discussed above, this language can be read to require that the regions be in place before the election in order that candidates and voters are “in the region.” It can also mean only that HOD delegate can only be elected by members in their same region.

If the new regional configuration is effective on January 1, 2010 to coincide with the effective date of the statutory amendment, it would seem that the 2010 HOD elections should conform to the new regional configuration. The HOD election typically takes place in late April<sup>8</sup> and delegates assume office upon election so they can participate in the HOD meeting held near the end of the same year. Accordingly, the HOD in 2010 would be constituted from different regions than the BOG for the better part of the year. There does not seem to be any statutory impediment to this, as ORS 9.136(2) provides only that “[t]he members of the board or governors of the Oregon State Bar are ex officio voting delegates.” The practical problem will be that Region 7 will have HOD delegates but no BOG member to “host” regional meetings.

Alternatively, if the effective date of the new configuration is deferred to January 1, 2011, the 2010 HOD election would be based on the current configuration. The 2010 BOG elections would be based on (and in anticipation of) the new configuration. (This could also be accomplished by making the effective date May 1, 2010, which is after the 2010 HOD

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<sup>7</sup> It also impacts the Disciplinary Board and State Professional Responsibility Board, whose members are appointed by region. Implementation issues for those groups will be addressed in the coming months.

<sup>8</sup> Nominating petitions are due in late March and ballots are sent in early April.

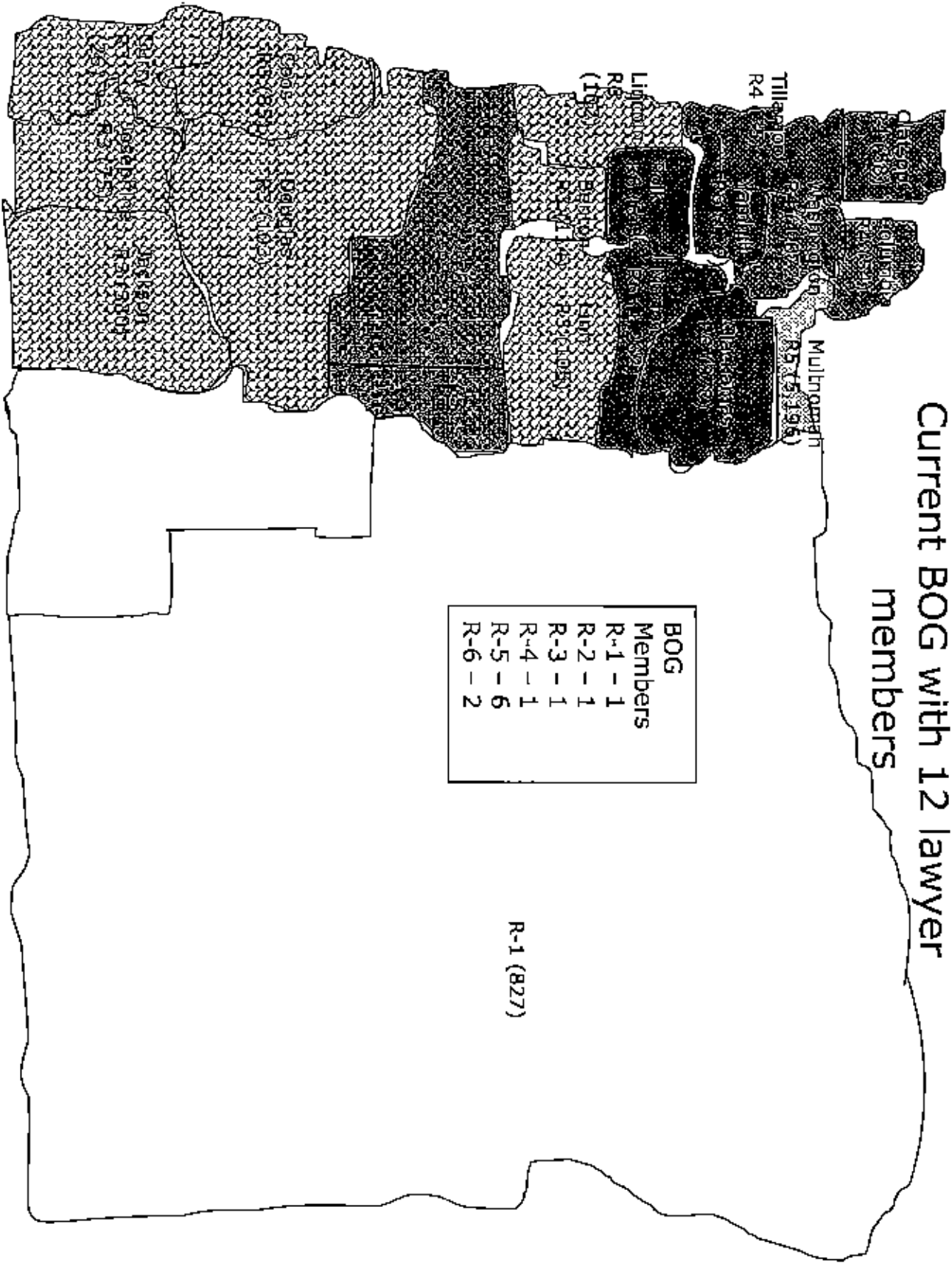
election but in time to apply to the 2010 BOG election (for terms beginning in 2011). The spring 2011 election for the HOD would be conducted using the new regions.

Regardless of what effective date is selected, there will some HOD members serving at the effective date who will no longer be in the region from which they were elected. ORS 9.150(2) provides that a delegate's term shall end on the date the delegate "ceases to maintain the delegate's principal office in the region the delegate was...elected to represent." A HOD member who doesn't move his or her office is, by the plain language of the statute, not disqualified from completing his or her term. As with BOG members serving out their terms, it is possible some bar members will feel disenfranchised and demand that the "vacant" positions be filled immediately. This seems like a relatively small risk.

In consideration of the foregoing, the preliminary conclusion of the Policy and Governance Committee was that deferring implementation of the new configuration until will be less disruptive than putting it into place for terms beginning in 2010. Regardless of the implementation date, the BOG needs to decide whether to allow Ms. DiIaconi and Ms. Nacler to serve out their terms or deem them disqualified on the effective date of the new plan. The BOG will also need to decide whether the HOD elections in 2010 should be under the current or the new configuration. The committee will have a recommendation on each of those issues at the meeting on April 3, 2009.

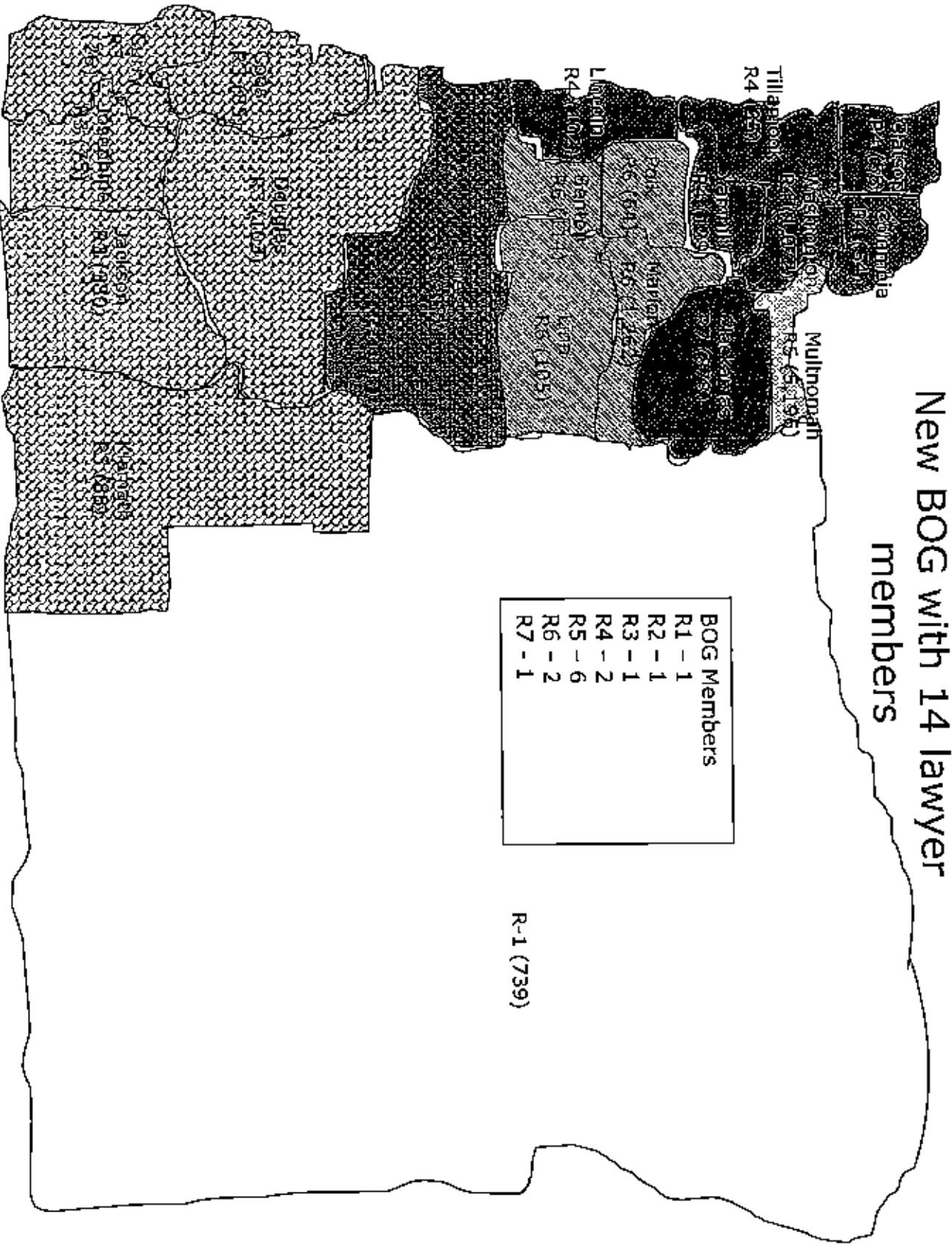
Attachments:       Map #1 Current BOG with 12 lawyer members  
                          Map #2 New BOG with 14 lawyer members  
                          Proposed Redistricting table (2/23/08)  
                          BOG Positions Chart  
                          Selected portions of ORS Chapter 9

# Map #1 Current BOG with 12 lawyer members



Note: Number in parenthesis is the number of attorneys in each county or region.

# Map #2 New BOG with 14 lawyer members



R-1 (739)

Note: Number in parentheses is the number of attorneys in each county or region.

Proposed Redistricting (2-23-08)

Current	Number of lawyers	Region	Recommended Option	Number of lawyers	Former Region	New Region
Baker	24	1	Baker	24	1	1
Crook	29	1	Crook	29	1	1
Deschutes	360	1	Deschutes	360	1	1
Gilliam	1	1	Gilliam	1	1	1
Grant	8	1	Grant	8	1	1
Harney	7	1	Harney	7	1	1
Hood River	49	1	Hood River	49	1	1
Jefferson	15	1	Jefferson	15	1	1
Klamath	88	1	Lake	9	1	1
Lake	9	1	Malheur	45	1	1
Malheur	45	1	Morrow	2	1	1
Morrow	2	1	Sherman	1	1	1
Sherman	1	1	Umatilla	102	1	1
Umatilla	102	1	Union	32	1	1
Union	32	1	Wallowa	10	1	1
Wallowa	10	1	Wasco	42	1	1
Wasco	42	1	Wheeler	3	1	1
Wheeler	3	1				
	827			739		
Lane	880	2	Lane	880	2	2
Benton	114	3	Coos	85	3	3
Coos	85	3	Curry	26	3	3
Curry	26	3	Douglas	103	3	3
Douglas	103	3	Jackson	330	3	3
Jackson	330	3	Josephine	75	3	3
Josephine	75	3	Klamath	88	1	3
Lincoln	102	3		707		
Linn	105	3				
	940					



Clatsop	58	4	Clatsop	58	4	4
Columbia	54	4	Columbia	54	4	4
Tillamook	35	4	Lincoln	102	3	4
Washington	1,072	4	Tillamook	35	4	4
	1,219		Washington	1,072	4	4
			Yamhill	129	6	4
				1,450		
			Divided by 2	725		
Multnomah	5,196	5	Multnomah	5,196	5	5
Divided by 6	866		Divided by 6	866		
Clackamas	878	6	Benton	114	3	6
Marion	1,262	6	Linn	105	3	6
Polk	64	6	Marion	1,262	6	6
Yamhill	129	6	Polk	64	6	6
	2,333			1545		
Divided by 2	1,167		Divided by 2	773		
			(3) Clackamas	878	6	7
				878		

Configuration as of 12/1/2007

Region	No. Lawyers	No. of Gov's	Deviation from 1:950	% Deviation
1	827	1	123	12.9%
2	880	1	70	7.4%
3	940	1	-10	1.1%
4	1219	1	-269	-28.3%
5	5196	6	84	8.8%
6	2333	2	-217	-22.8%
<b>Total</b>	<b>11395</b>	<b>12</b>		

<b>Total Deviation</b> 41.2
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Recommendation with 14 lawyers

Region	No. Lawyers	No. of lawyer board members	Deviation from 1:814	% Deviation
1	739	1	75	9.2%
2	880	1	-66	-8.1%
3	707	1	107	13.1%
4	1450	2	89	10.9%
5	5196	6	-52	-6.4%
6	1545	2	42	5.1%
7	878	1	-64	-7.9%
<b>Total</b>	<b>11395</b>	<b>14</b>		

<b>Total Deviation</b> 21.2
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BOG Positions with New Lawyer Members  
beginning January 1, 2011

Region/Seat	2010	2011	2012	2013	2014	2015	2016
1 (DeIaconi)***	hatched	hatched	hatched	stippled	stippled	stippled	stippled
2 (?)	hatched	hatched	hatched	hatched	stippled	stippled	stippled
3 (Naucler)**	hatched	hatched	hatched	stippled	stippled	stippled	stippled
4/1 (Fisher)*	hatched	stippled	stippled	stippled	stippled	hatched	hatched
4/2 (new) **	n/a	stippled	stippled	hatched	hatched	hatched	hatched
5/1 (?)	hatched	hatched	hatched	hatched	stippled	stippled	stippled
5/2 (?)	hatched	hatched	hatched	hatched	stippled	stippled	stippled
5/3 (Johnson)*	hatched	stippled	stippled	stippled	stippled	hatched	hatched
5/4 (Kent)	hatched	hatched	stippled	stippled	stippled	stippled	hatched
5/5 (Piucci)	hatched	hatched	stippled	stippled	stippled	stippled	hatched
5/6 (Larson)	hatched	hatched	hatched	stippled	stippled	stippled	stippled
6/1 (Evans)*	hatched	stippled	stippled	stippled	stippled	hatched	hatched
6/2 (Johnnie)	hatched	hatched	stippled	stippled	stippled	stippled	hatched
7 (new) **	n/a	hatched	hatched	hatched	hatched	stippled	stippled
Public 1 (?)	hatched	hatched	hatched	hatched	stippled	stippled	stippled
Public 2 (Lord)	hatched	stippled	stippled	stippled	stippled	hatched	hatched
Public 3 (Matsumonji)	hatched	hatched	stippled	stippled	stippled	stippled	hatched
Public 4 (Garcia)	hatched	hatched	hatched	stippled	stippled	stippled	stippled

\* existing positions starting new terms in 2011

\*\* new positions starting new terms

\*\*\* "out of region" after implementation

**9.025 Board of governors; number; eligibility; term; effect of membership.**

\* \* \*

(2) For the purpose of eligibility for nomination and to vote in the election of a member of the board of governors who is an elective member, and for appointment to the board of governors, the State of Oregon shall be divided into regions determined by the board. The board shall establish board regions that are based on the number of attorneys who have their principal offices in the region. To the extent that it is reasonably possible, the regions shall be configured by the board so that the representation of board members to attorney population in each region is equal to the representation provided in other regions. At least once every 10 years the board shall review the number of attorneys in the regions and shall alter or add regions as the board determines is appropriate in seeking to attain the goal of equal representation.

(3) *Members of the board of governors may be elected only by the active members of the Oregon State Bar who maintain their principal offices in the regions established by the board.* The term of a member of the board is four years.

\* \* \*

(5) *The term of any member of the board of governors shall terminate on the date of the death or resignation of the member, or if the member is required to be a member of the Oregon State Bar, the term terminates on the date:*

(a) Of the termination of active membership in the Oregon State Bar by the member for any reason;

(b) *When the member discontinues to maintain the principal office of practice in the region in which it was maintained at the time of the appointment or election of the member; or*

(c) *When the member assumes office as a judge of a municipal, state or federal court, or fills a full-time judicial office.*

\* \* \*

**9.136 House of delegates created; membership; terms.**

\* \* \*

(2) The members of the board of governors of the Oregon State Bar are ex officio voting delegates.

\* \* \*

(5) Elected delegates shall be elected from the regions established by ORS 9.025 and an additional region composed of all areas not located in this state. Only active members of the bar may vote for delegates. *A member who maintains a principal office in one of the regions established by ORS 9.025 may vote for delegates from the region where the member maintains the office.*

\* \* \*

(7) Elected delegates shall serve for terms of three years. A vacancy in the office of an elected delegate shall be filled for the remainder of the term by a delegate appointed by the board of governors.

\* \* \*

**9.150 Termination of delegate's term.** *The term of service of any delegate shall end upon the death or resignation of the delegate. If the delegate is an attorney delegate, the term of service shall end on the date that the delegate:*

(1) Terminates the delegate's active membership in the Oregon State Bar for any reason;

(2) *Ceases to maintain the delegate's principal office in the region the delegate was appointed or elected to represent;*

(3) Takes office as a member of the board of governors, as a chairperson of a state bar section or as a county bar association president; or

(4) Is recalled pursuant to ORS 9.155.

# OREGON STATE BAR

## Policy & Governance Committee Agenda

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Meeting Date: April 3, 2009  
Memo Date: March 13, 2009  
From: MCLE Committee  
Re: Reporting Period After Reinstatement

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### Action Recommended

Consider proposed MCLE Rules 3.7(c)(3) and (d)(3) regarding reporting periods after reinstatement, which were approved by the MCLE Committee on March 6, 2009.

### Background

Bar members whose membership status is "inactive" are not required to report MCLE credits. In lieu of reporting credits, some members transfer to inactive status, even after the end of the reporting period for which they were required to report credits. For example, a member whose current reporting period ended 12/31/2008 may transfer to inactive status at any time in 2009 up until the time he or she would be suspended for failure to comply with the MCLE rules.<sup>1</sup> The member would then not be required to report for the 2008 reporting period; in effect the reporting obligation for the three years ending 12/31/08 goes away.

MCLE reporting periods for reinstated members or members resuming the practice of law after retirement are assigned pursuant to MCLE Rules 3.7:

#### 3.7 Reporting Period

\* \* \*

#### (c) Reinstatements.

(1) A member who transfers to inactive status, is suspended, or has resigned and who is reinstated before the end of the reporting period in effect at the time of the status change shall retain the member's original reporting period and these Rules shall be applied as though the transfer, suspension, or resignation had not occurred.

(2) Except as provided in Rule 3.7(c)(1), the first reporting period for a member who is reinstated as an active member following a transfer to inactive status or a suspension, disbarment or resignation shall start on the date of reinstatement and shall end on December 31 of the next calendar year. All subsequent reporting periods shall be three years.

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<sup>1</sup> There is no set date for this to occur, as many noncompliant members are given extensions of time in which to complete their requirements. All members are subject to suspension on July 1 if they haven't paid their dues. Suspended members may not transfer to inactive status until the suspension is remedied and the membership status is active.

(d) Retired Members.

(1) A retired member who resumes the practice of law before the end of the reporting period in effect at the time of the member's retirement shall retain the member's original reporting period and these Rules shall be applied as though the retirement had not occurred.

(2) Except as provided in Rule 3.7(d)(1), the first reporting period for a retired member who resumes the practice of law shall start on the date the member resumes the practice of law and shall end on December 31 of the next calendar year. All subsequent reporting periods shall be three years.

Pursuant to Rule 3.7(c)(1) and (d)(1), a member who skips the 2008 reporting period by transferring to inactive status in 2009, and then returns to active status at any time during the 2009-2011 reporting period would be required to report 45 credits for the reporting period ending 12/31/2011. This is because the member transferred to inactive status and returned to active status all within the same reporting period (2009-2011). The way these rules currently read, a member could go for six years without reporting any CLE credits.<sup>2</sup>

Notwithstanding the language of the rules, our practice has been to assign a new reporting period for members who did not submit a completed compliance report for the reporting period immediately prior to their membership status change. For example, a member who skips the 2008 reporting period, transfers to inactive status in 2009, and then returns to active status at any time would be assigned a new reporting period pursuant to Rules 3.7(c)(2) and (d)(2) and have a minimum requirement of 15 credits. The test we applied was "Did the member skip a reporting period?" If no, then we followed Rule 3.7(c)(1) or (d)(1). If yes, then we followed Rule 3.7(c)(2) or (d)(2).

Recently, a member transferred to inactive status in early January, eliminating the need to file a compliance report for his reporting period that ended 12/31/08. Due to an unanticipated need to represent a family business in a bankruptcy matter, the lawyer reinstated less than three weeks later. At that time, General Counsel noted that the way we have traditionally handled these situations was not supported by the language of the rules.

In order to ensure that any reinstated member is completing CLE credits soon after his or her reinstatement (and thus is not detrimental to the public interest), I suggest the MCLE rules be amended to clearly state that any member who did not file a completed compliance report for the reporting period immediately prior to their membership status change will be assigned a new reporting period as set forth in the following proposed rules:

*3.7(c)(3) Notwithstanding Rules 3.7(c)(1) and (2), reinstated members who did not submit a completed compliance report for the reporting period immediately prior to their transfer to inactive status, suspension or resignation will be assigned a new reporting period upon*

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<sup>2</sup> Pursuant to OSB Rules of Procedure 8.1 and 8.2 regarding reinstatements, each applicant requesting reinstatement must show that the applicant has good moral character and general fitness to practice law and that the resumption of the practice of law in this state by the applicant will not be detrimental to the administration of justice or the public interest. The Executive Director or Board of Governors could require an applicant to complete a prescribed course of continuing legal education prior to becoming reinstated.

*reinstatement. This reporting period shall begin on the date of reinstatement and shall end on December of the next calendar year. All subsequent reporting periods shall be three years.*

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*3.7(d)(3) Notwithstanding Rules 3.7(d)(1) and (2), members resuming the practice of law after retirement who did not submit a completed compliance report for the reporting period immediately prior to retirement will be assigned a new reporting period upon the resumption of the practice of law. This reporting period shall begin on the date of the resumption of the practice of law and shall end on December of the next calendar year. All subsequent reporting periods shall be three years.*

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26.1

JUDICIAL BRANCH



# JUDICIAL BRANCH

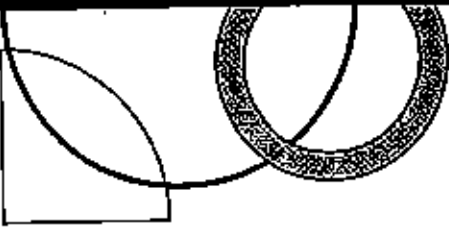


## OVERVIEW (Monday)

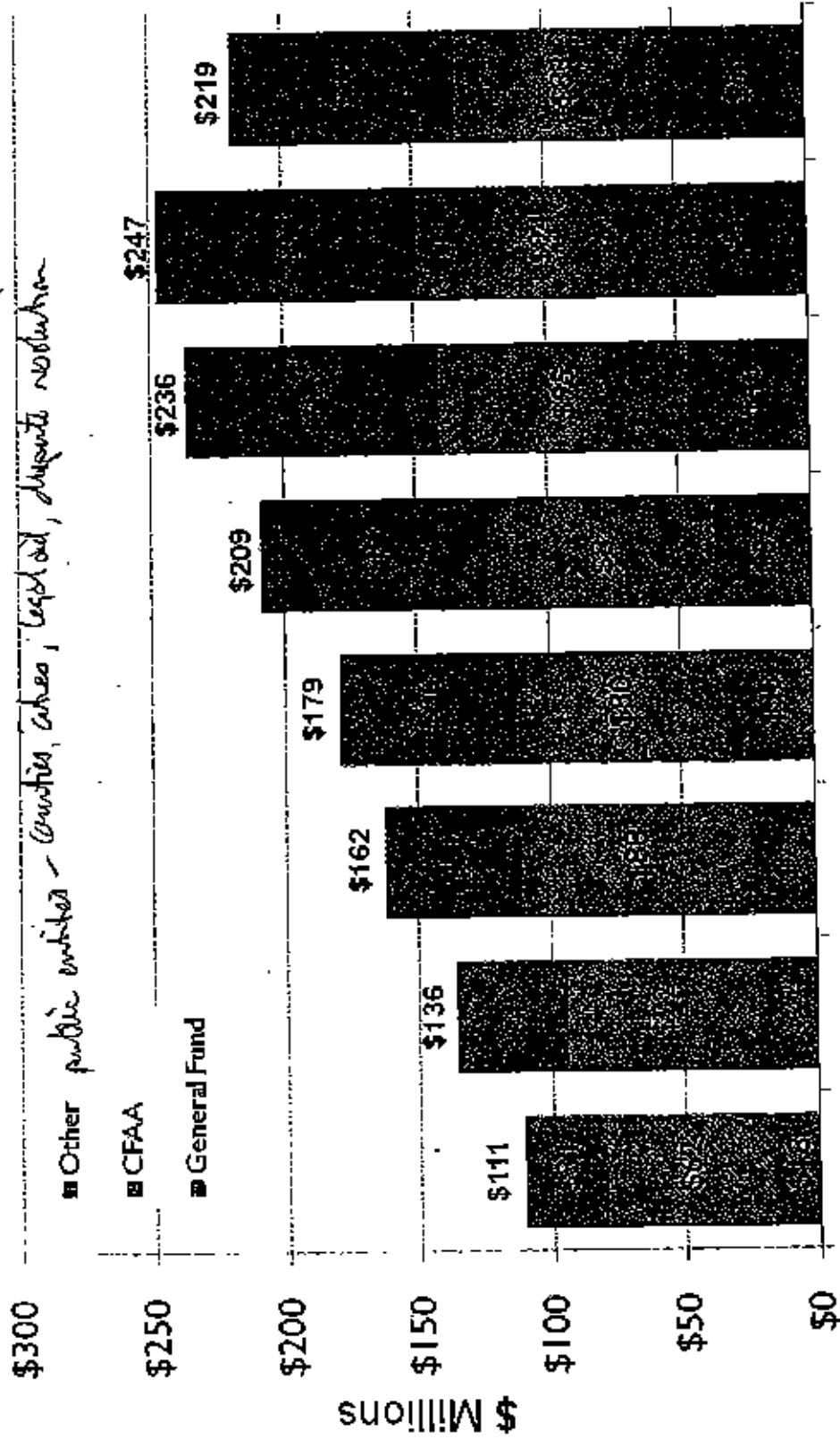
03-30-09

# COLLECTIONS AND REVENUE ADMINISTRATION

26-2



# OJD Biennial Revenue Distributions



Projections based on March 2009 revenue forecast, does not include restitution

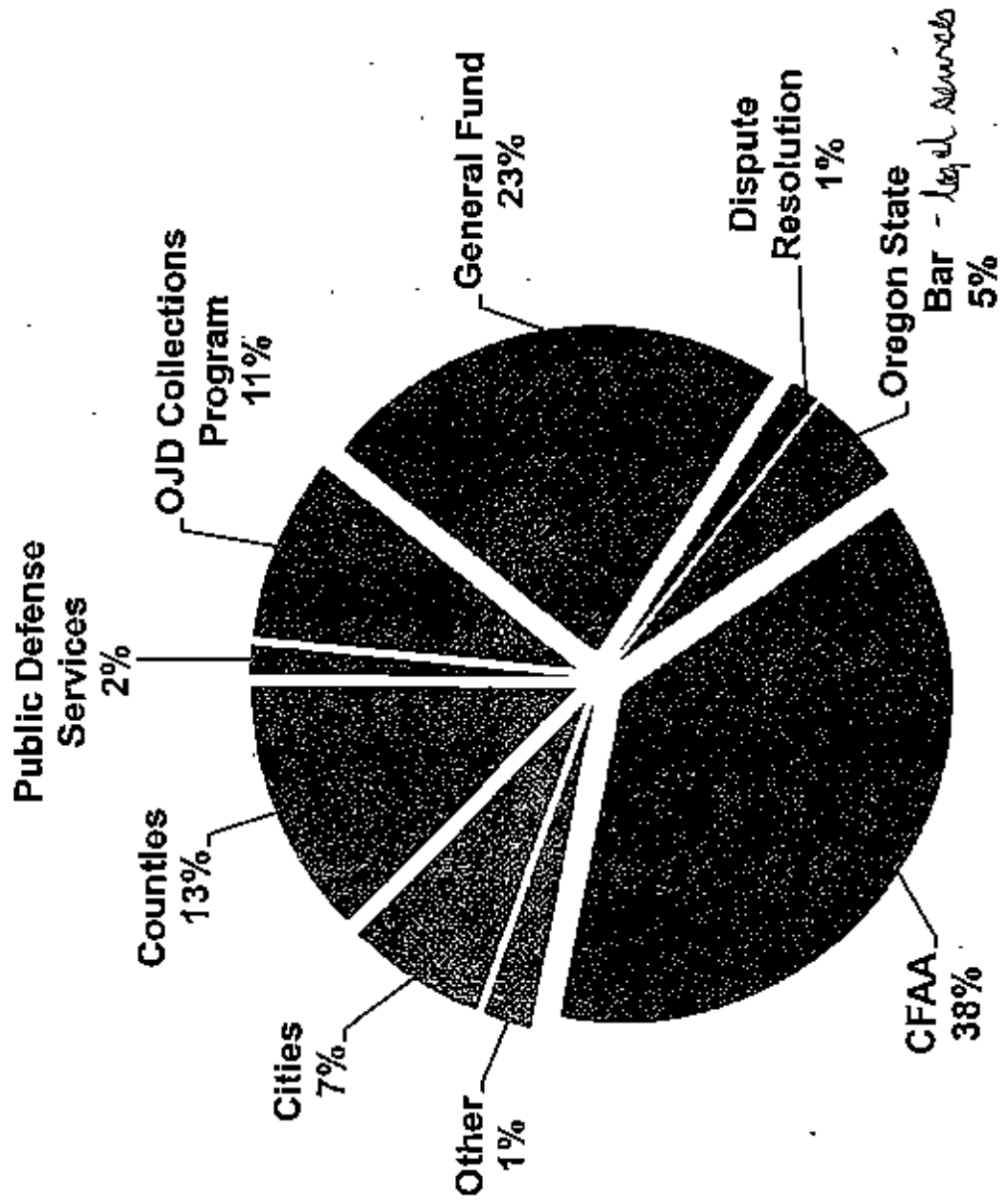
*→ @AZM*



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# JUDICIAL BRANCH

## 2009-11 Estimated Revenue Distribution \$219.2 Million Total Funds



Note: March 2009 Forecast  
Restitution payments are projected to be \$22.0 Million

# Collection of Court Imposed Obligations

**Court Staff:** Collect debt as part of day to day court activities including cashiering, setting payment plans, sending letters, managing receivables, managing action tables, court accounting. Some specialized collection activities such as restitution court. (240.4 FTE)

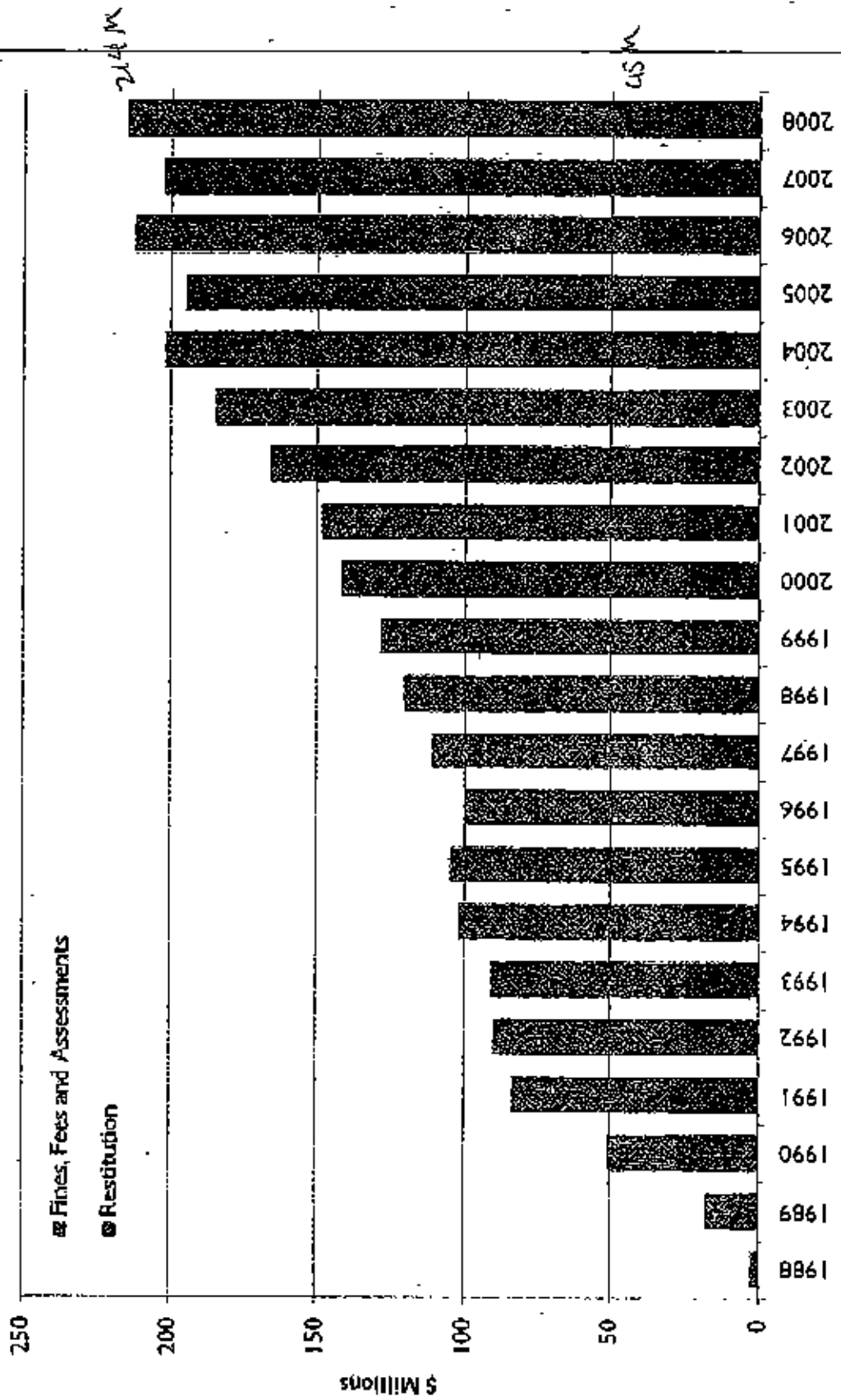
**OSCA Staff:** Perform collections activities, train court staff, manage relationships with DOR and Private Collection firms, support financial system, analyze financial and collections data. (14.2 FTE)

**Funding:** Staff in Courts and in OSCA funded from combination of General Fund (40% of FTE) and assessment on amounts collected (60% of FTE). Assessment revenue projected at \$17 million in 2007-09.

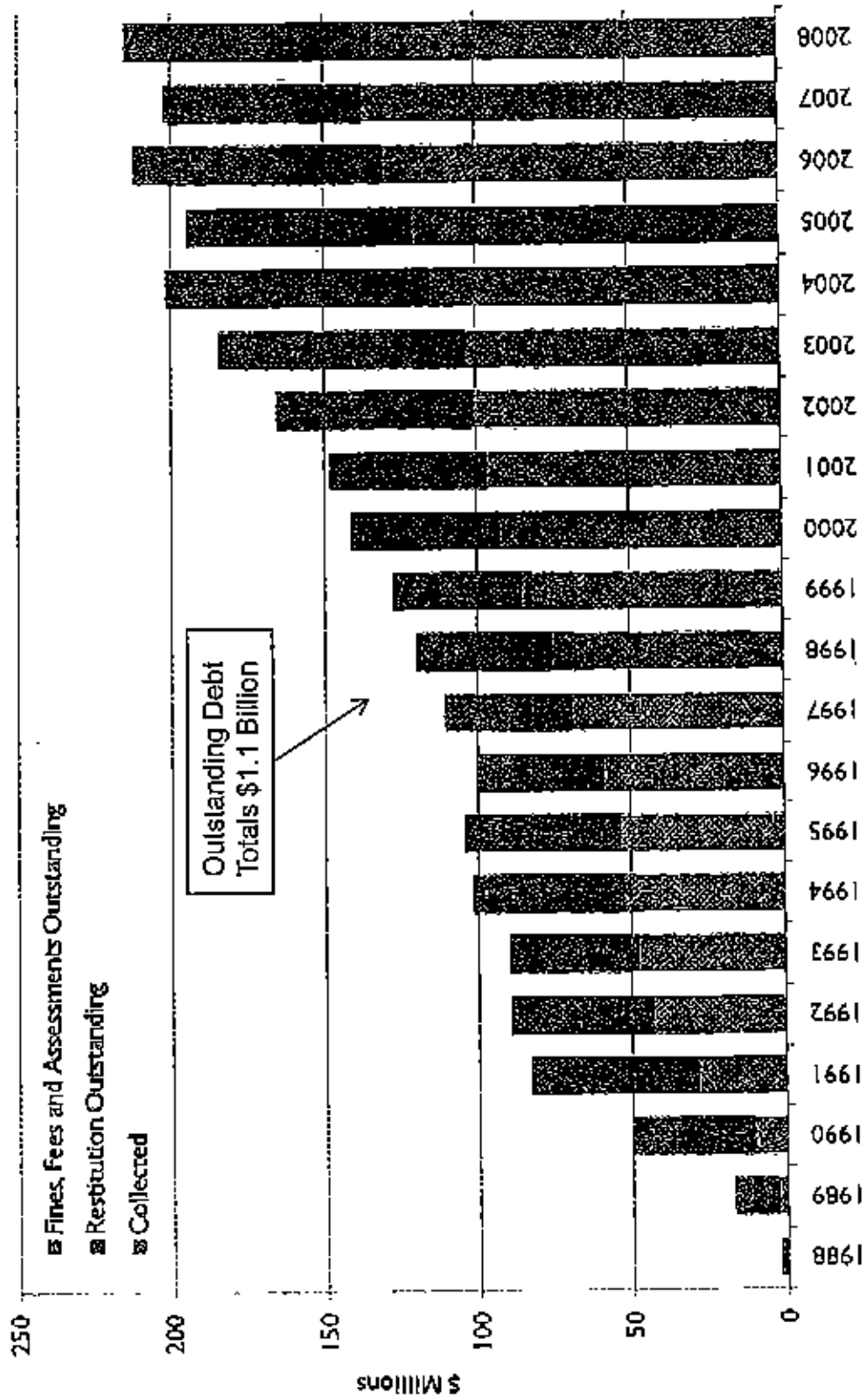
**DOR and Private Collections Firms:** Approximately 40 percent of receivables placed for collection. *400 M split evenly betw. DOR/ private collection*

**Funding:** Collection Referral Assessment (CRAS) on debt sent out for collections (\$8.1 million in 2007-09).

# Debt Imposed by Year

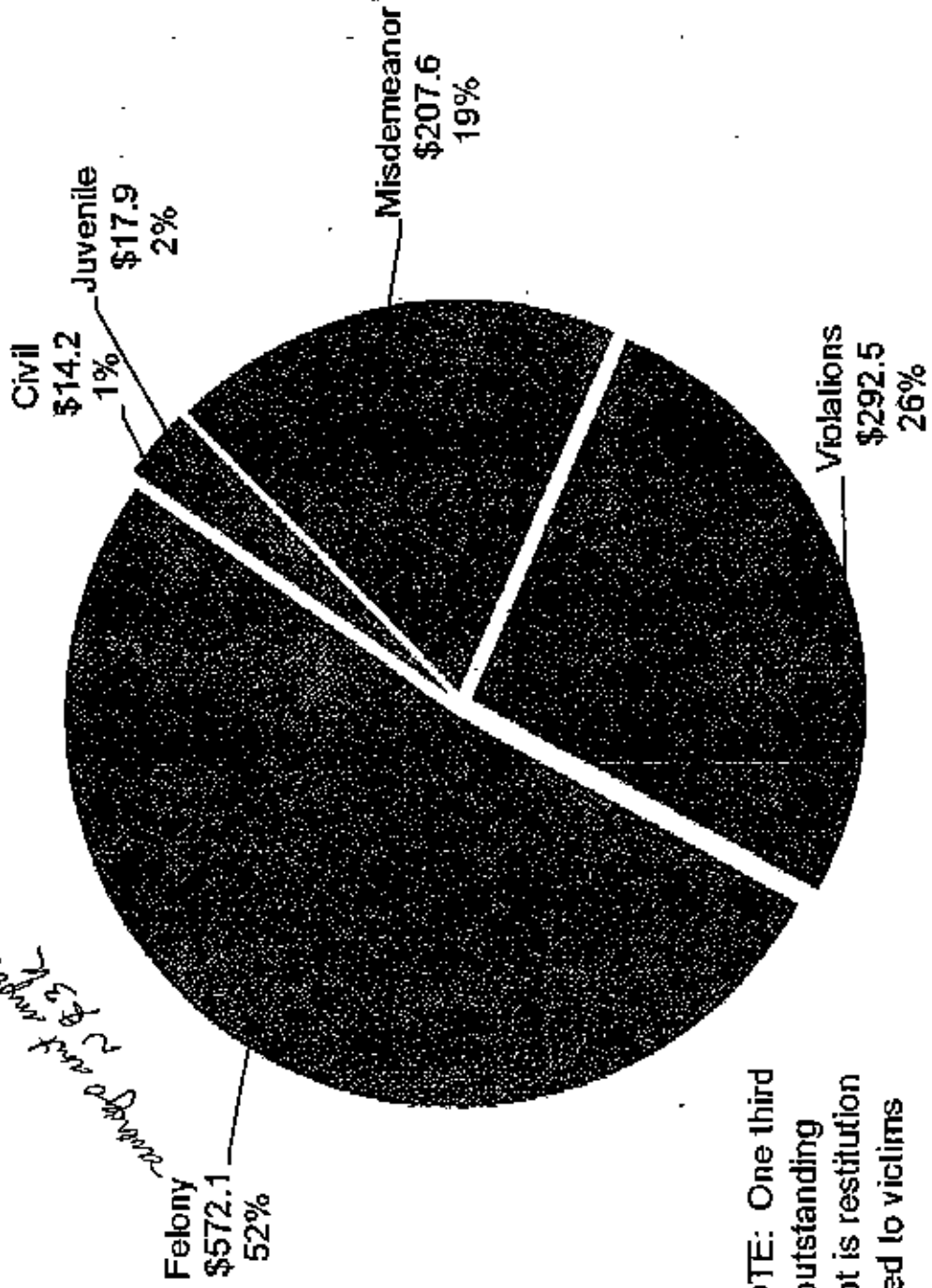


# Debt Imposed by Year with Cumulative Amounts Collected



*debt stays in effect for 20 yrs for civil; 50 yrs for restitution; 10 yrs for criminal*

# Source of Outstanding Debt (\$ Millions)

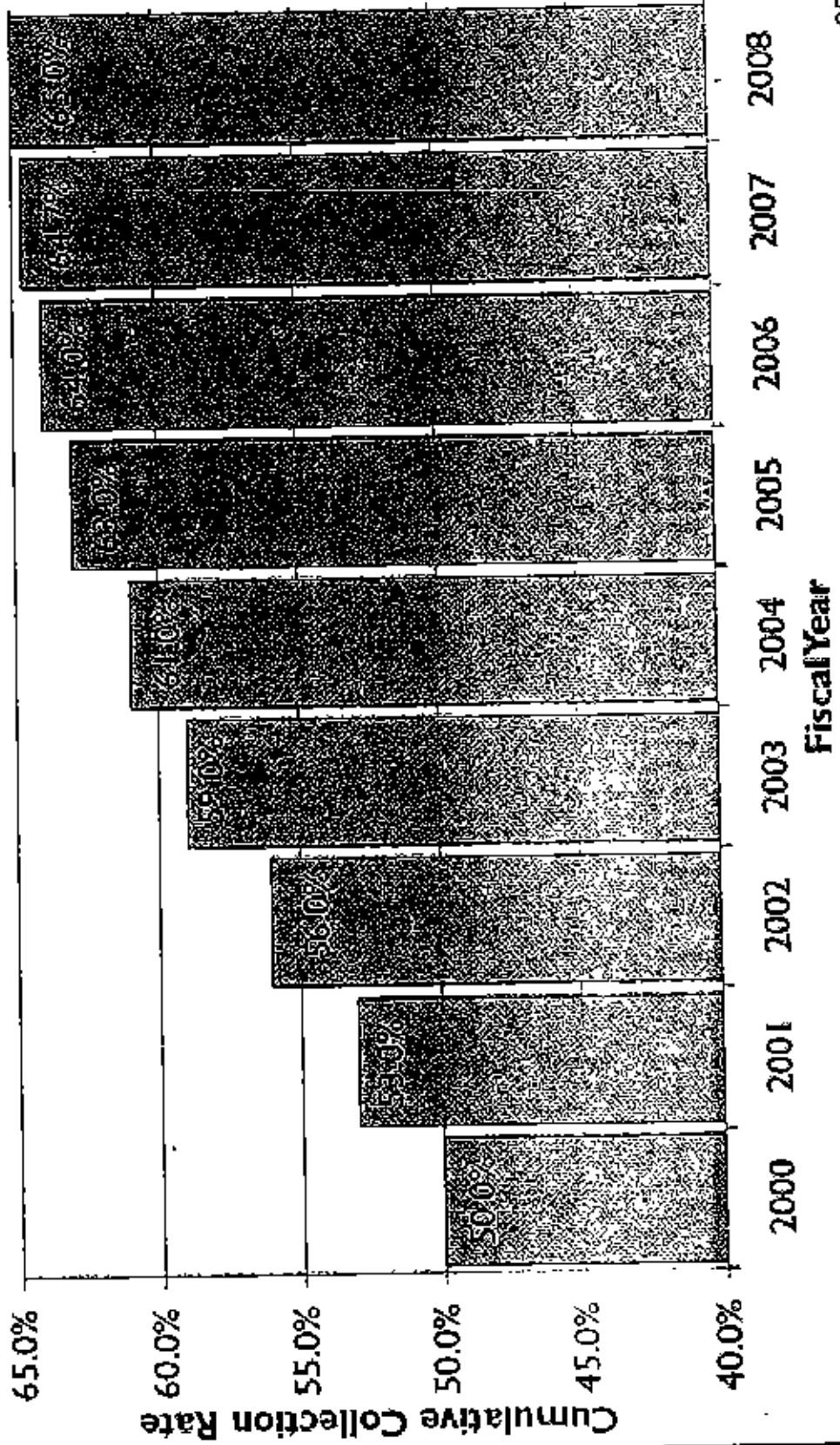


NOTE: One third of outstanding debt is restitution owed to victims



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# Improvements in Collections Reflected in Statewide Performance Measure



# Challenges of Collecting Court Ordered Financial Obligations

- Type of debtors: Felons are frequently imprisoned.
- Much of the outstanding debt is very old – judgment remedies do not expire in criminal cases for 20 years.
- Case based financial system makes it very difficult to manage the debt on a “person” level.
- OJD currently only has a few staff performing what is typically thought of as collections.