

**Testimony before the Senate Committee on  
Judiciary and Ballot Measure 110 Implementation  
In support of SB 768  
On behalf of the Oregon State Bar**

March 8, 2021

Chair Prozanski, members of the committee:

My name is Amber Hollister and I am the General Counsel of the Oregon State Bar. It is a pleasure to be here today and I welcome the opportunity to talk with you about the Oregon State Bar.

The Oregon State Bar is an instrumentality of the Judicial Department and is governed by the OSB Board of Governors. The mission of the Oregon State Bar is to serve justice and the public interest by promoting respect for the rule of law, by improving the quality of legal services, and by increasing access to justice.

SB 768 addresses several issues regarding the organization and governance of the Oregon State Bar:

- The bill provides that the bylaws of the Oregon State Bar are subject to review and approval by the Oregon Supreme Court. As an instrumentality of the judicial branch, the Bar operates pursuant to Supreme Court Rules, and its regulatory budgets are approved by the Supreme Court. Providing for Supreme Court approval of Bar Bylaws is a natural continuation of existing oversight by the judicial branch.
- The bill makes a minor clarification to the immunity provisions for persons who make claims with the Client Security Fund, as well as to the staff and committee members who deal with these claims. The new language clarifies that immunity applies to communications based not just on the pending claims but also to any awards to victims of lawyer theft that may result from such claims. The Client Security Fund Rules state that an award has no impact on whether the lawyer may or may not be separately subject to professional discipline, a claim for malpractice, or criminal liability.
- The bill provides additional flexibility to the court when it needs to take jurisdiction over a law practice and appoint a custodian. Under currently law, only the Oregon State Bar itself may petition the court to take jurisdiction over a law practice, and if the court decides to do so it may only appoint the Oregon State Bar as the custodian. Under SB 768, any attorney may petition the court to appoint a custodian. Additionally, if the Bar declines the appointment as custodian, the court may appoint another attorney to act as the custodian instead. Based on the

geographic location of a legal practice or resource limitations, it may be prudent for the court to appoint another lawyer as custodian.

- The bill clarifies that courthouse staff and court volunteers who provide guidance on court forms, basic assistance and general legal information to court users are not engaged in the unlawful practice of law.
- The bill allows the Oregon State Bar House of Delegates to vote via electronic ballot, so long as the vote of each member is recorded and published after the meeting. In 2020 the House of Delegates held its annual meeting remotely for the first time. Because it was unclear whether electronic ballots could be used, the voting process for the meeting was somewhat slow and cumbersome. This minor change will allow any future remote House of Delegate meetings to proceed more efficiently. Voting will remain fully transparent to the public.
- The bill allows the Oregon Supreme Court to adopt rules to permit the admission of associate members of the bar without requiring such members to take the bar exam. SB 768 does not require the Court to adopt such rules; rather it provides the court with a mechanism to issue rules that could potentially permit licensure of individuals to provide limited legal representation of clients in certain subject areas or under other conditions.
- The bill provides a mechanism for the Oregon State Bar Board of Governors (BOG) to vote to remove a member from the board. Currently, the only mechanism to remove a BOG member is a recall by the OSB membership from the region that elected the member, which is a cumbersome process.
- The bill exempts the Oregon State Bar from the requirement in HB 4212 (First Session of 2020) to record all meetings. Currently the bar has over 40 bar sections, as well as numerous committees made up of bar members who hold public meetings. Very few of these groups are involved in OSB governance, but the requirement to record their meetings appears to apply to all of them. Under SB 768, the bar is still required to make these meetings accessible to the public, but would not have to bear the expense of recording and archiving all meetings.
- The Professional Liability Fund was created in 1977 after the legislature passed legislation authorizing it in 1975. The PLF is a self-funded entity that has never been subject to the Oregon Insurance Code. The bill makes this fact more transparent by simply listing the PLF as an exempt entity in ORS Chapter 731.

Thank you for your time. I would be happy to answer any questions you might have.