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Testimony of Arthur Towers

OTLA Political Director

## **In Opposition to Senate Bill 768**

Before the Senate Committee on Judiciary and Measure 110 Implementation

March 8, 2021

Chair Prozanski, Vice-Chair Thatcher and members of the committee, thank you for the opportunity to submit testimony in strong opposition to SB 768, Section (1).

The Oregon State Bar is governed by a 20-member Board of Governors and a House of Delegates comprised of roughly 140 members across the state.

This democratic structure has served the Bar in good stead by giving rank-and-file members input and by providing a check and balance on the Board of Governors.

SB 768 (Sec 1 Page 1, lines 12-14) places by-laws changes under the review of the state Supreme Court. This change strips the House of Delegates of its power to review and rescind by-laws changes proposed by the Board of Governors.

ORS 9.139 grants the House of Delegates the power to modify or rescind an action of the Board of Governors. One of the key powers is to modify and rescind bylaws changes. However, 9.139 (3) (c) reasonably denies the House of Delegates this power if the action is in the purview of the Supreme Court.

Membership in the Oregon State Bar is mandatory. The decision-making process should remain open for member involvement. The provision in Section 1 cuts rank-and-file members out of the process and should be deleted. The legislature should promote transparency within the Oregon State Bar.

If the legislature decides that Supreme Court review of OSB by-laws changes is necessary, then the bill should be amended to maximize transparency.

We recommended:

- Mandatory publication of proposed bylaws changes in the OSB Bulletin and other regular Bar publications. Electronic notice to all Bar members of proposed bylaws changes.
- Explanation in the publications and electronic notices of the justification for the change and access to data and reports the Board relied on to develop the proposed bylaws changes.
- Comment period for OSB members to respond to the proposed changes prior to submission of the changes to the Supreme Court.
- Formal process for OSB members to engage in the Supreme Court by-laws review process.
- Clarification that the Supreme Court may adopt, reject or revise the proposed by-law amendment.