

**PROPOSAL TO AMEND RULE 15 OF THE RULES CONCERNING THE STATE BAR OF MICHIGAN TO INCREASE THE ONE-TIME CHARGE TO APPLICANTS FOR ADMISSION FOR CHARACTER & FITNESS INVESTIGATION COSTS**

**Issue**

Should the State Bar of Michigan support an amendment of Rule 15 of the Rules Concerning the State Bar of Michigan (SBR 15) to increase the character and fitness investigation fee to \$375 from the current fee of \$225 and increase the late application fee to \$175 from the current fee of \$100?

RESOLVED, that the Representative Assembly approves of the proposed amendment to (SBR 15) to increase the character and fitness investigation fee to \$375 from the current fee of \$225 and increase the late application fee to \$175 from the current fee of \$100.

Rule 15. Admission to the Bar

*Section 1. Character and Fitness Committees.*

(1)-(20) [**Unchanged.**]

(21) Every applicant for admission by examination and any other applicant whose application is submitted to the standing committee on character and fitness for evaluation and recommendation shall pay to the State Bar of Michigan a fee of ~~\$225~~**\$375** for the character and fitness investigation authorized by this rule. An additional fee of ~~\$100~~**\$175** shall be required for character and fitness evaluations related to applications for the February examination that are postmarked after November 1, and applications for the July examination that are postmarked after March 1.

*Section 2. Foreign Attorney; Temporary Permission.* [**Unchanged.**]

*Section 3. Procedure for Admission; Oath of Office.* [**Unchanged.**]

**Synopsis**

The character and fitness fee increase is proposed for the following reasons: (1) costs have increased since the last time the fee was raised in 2001; (2) the 2001 fee increase did not cover the character and fitness program costs; (3) applications to the State Bar have declined in recent years and continue to decline, resulting in less total revenue; (4) the character and fitness fee is on the low end when compared to other states; and (5) to recoup development costs of the automated process and credit card processing fees.

**Background**

SBR 15, paragraph 21 was last amended in 2001 to more accurately reflect the actual cost of character of fitness investigations. However, the 2001 amendment did not seek to cover the entire direct operational expenses of the Character and Fitness Department.

Since 2014, the revenue generated by bar applications has steadily declined (about 9% per year) due to a reduction in the number of law school enrollments. This trend has been experienced nationally and there is uncertainty whether the recent trend will stabilize soon.

A review of anecdotal data for other comparable jurisdictions (not all jurisdictions charge a separate

bar exam and character and fitness fee) made available in 2015 by the National Conference of Bar Examiners (NCBE) shows that the character and fitness investigation fee is traditionally lower than the bar exam fee. The rough national average for the bar exam fee is \$525 and the rough national average for the character and fitness fee is \$350 for those jurisdictions who charge a separate fee for each component of the admissions process.

An amendment to BLE Rule 6 took effect on August 1, 2016, which increased the fee to sit for the bar exam to \$400 (the maximum allowed by statute). The amendment was proposed by the BLE at the end of last year to increase its revenue that had also been impacted by the drop in bar applications. The BLE has informally signaled that it plans in the near future to seek a statutory modification so the fee to sit for the bar exam may be further increased to fully cover its operational costs and to allow more flexibility for future increases that may be proposed based on amendments to BLE Rule 6.

The proposed character and fitness investigation fee increase to \$375 will not cover the entire direct operational expenses of the Character and Fitness Department, the amortized automated system expense, and e-Commerce transaction costs. However, this incremental adjustment is proposed to keep the character and fitness fee in line with fees nationwide and the ratio for jurisdictions charging separate fees. Another increase in the character and fitness investigation fee is expected to be proposed in conjunction with a future increase expected to be sought by the BLE.

State Bar staff has been working cooperatively with the BLE to automate the admissions process and enhance communications between BLE staff and Character and Fitness staff through use of specially customize portal systems. The automated system permits applicants to submit their Application to Sit for the Michigan Bar Exam (F-1) and Affidavit of Personal History (F-3; used for character and fitness investigations) and pay the required bar exam and character and fitness fees online. Therefore, the State Bar's Character & Fitness Department receives documents and information electronically and manages the investigative process using the customized system.

Enhancements to the automated system are expected to be completed by year end and they will provide an applicant portal to permit routine 24/7 access to applicants. Character and Fitness staff will utilize the portal system to seamlessly communicate with applicants electronically. Applicants will respond to staff's requests electronically, provide supplemental information as needed, and will be able to routinely check the status of their application. The enhanced automated system will also allow third parties (e.g. references, criminal background checks, employers, law schools, etc.) to upload documents to reduce transmission costs and improve processing efficiencies. Finally, the automated system will improve coordination and dissemination of information to Board of Law Examiners (BLE) staff and Character and Fitness Committees.

The Michigan Supreme Court is aware of the decline in applications and the technology improvements underway and associated costs. In light of the recent amendment to BLE Rule 6 and the Court's understanding of the automation of the admissions process that has already occurred and further enhancements currently underway, the Court is expected to be receptive to the proposed amendment to SBR 15, paragraph 21 to increase the character and fitness fee and the associated late fee.

The State Bar also seeks to recoup the e-Commerce transaction fee it incurs when credit card and debit card payments are processed online when applicants remit the required fees. In addition, it seeks to cover the expense (amortized over time) of building and routine enhancements of the customized automated system.

### Opposition

None known.

#### Prior Action by Representative Assembly

During its meeting on September 13, 1973, the Representative Assembly took the following action: “Approved a recommendation to the Supreme Court requiring registration of law students within 90 days after commencement of law school studies, to facilitate an earlier and more thorough character and fitness investigation.”

During its meeting on September 12, 1974, the Representative Assembly took the following action: “Approved a report of the State Bar Committee on Character and Fitness proposing standards for its investigations.”

During its meeting on September 17, 1988, the Representative Assembly took the following action: “Approved, as amended, a proposal to amend Rule 15, Section 3(1) of the Supreme Court Rules Concerning the State Bar of Michigan, which would add the Plain English Lawyer’s Oath as an optional version for admission ceremonies for new lawyers.”

During its meeting on April 29, 2000, the Representative Assembly took the following action: “Supported the proposed amendment of the Character and Fitness fee increase.”

#### Fiscal and Staffing Impact on State Bar of Michigan

Beneficial. Approval of the proposal would increase revenue and help defray direct operational costs for the character and fitness program, including labor and technology enhancements.

#### **STATE BAR OF MICHIGAN POSITION By vote of the Representative Assembly on September 22, 2016.**

Should the Representative Assembly adopt the above resolution to amend Rule 15 of the Rules Concerning the State Bar of Michigan (SBR 15) to increase the character and fitness investigation fee to \$375 from the current fee of \$225 and increase the late application fee to \$175 from the current fee of \$100?

The above Resolution should be adopted.

(a) Yes

or

(b) No

## Proposed Increase in Character & Fitness Investigation and Late Fees Charged to Bar Applicants



Danon Goodrum-Garland  
Director of Professional Standards

James C. Horsch  
Director of Finance & Administration

8/11/16

### What

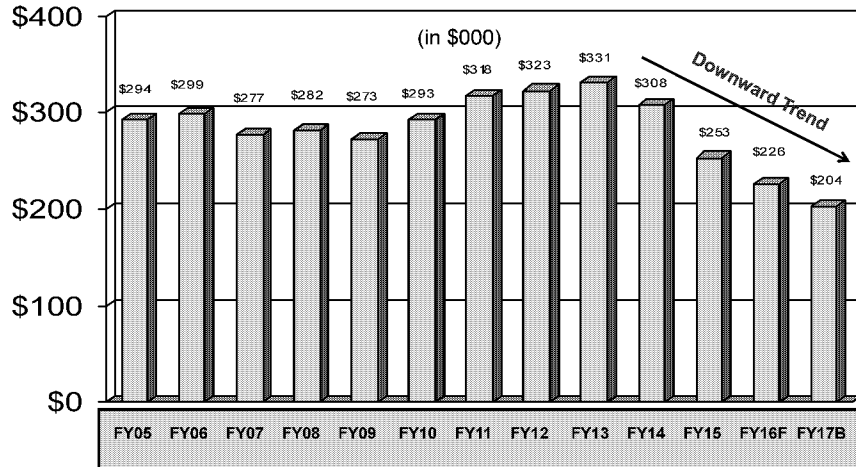
Ask Michigan Supreme Court to

- increase C&F investigation fee from \$225 to \$375
- increase late fee from \$100 to \$175

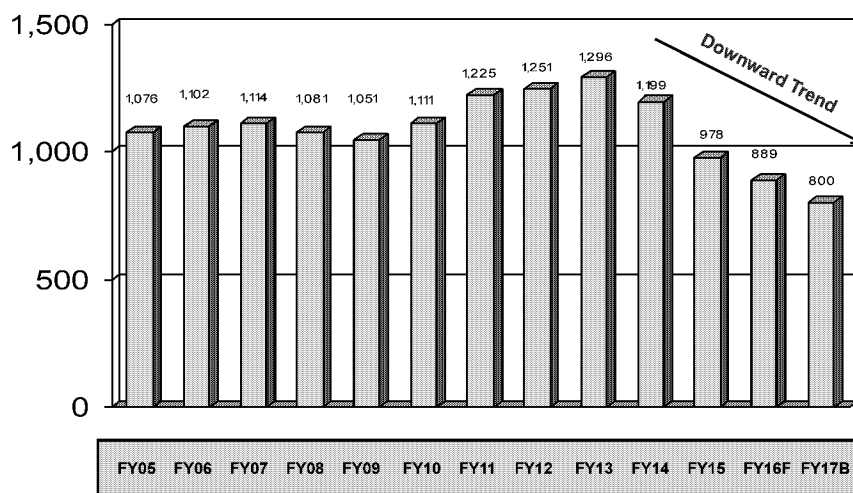
### Why

- Fee last raised in 2001, costs increasing
- Number of applicants decreasing, less revenue to cover costs
- Michigan fees below national average
- User fees need to be adjusted to increase cost to user, decrease SBM member subsidy of cost of C & F program

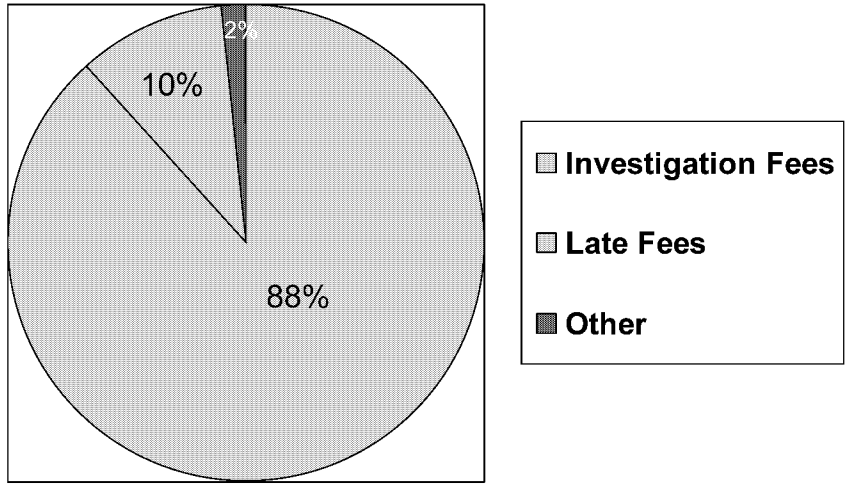
### Total Character & Fitness Revenues (Investigation fees, late fees, other)



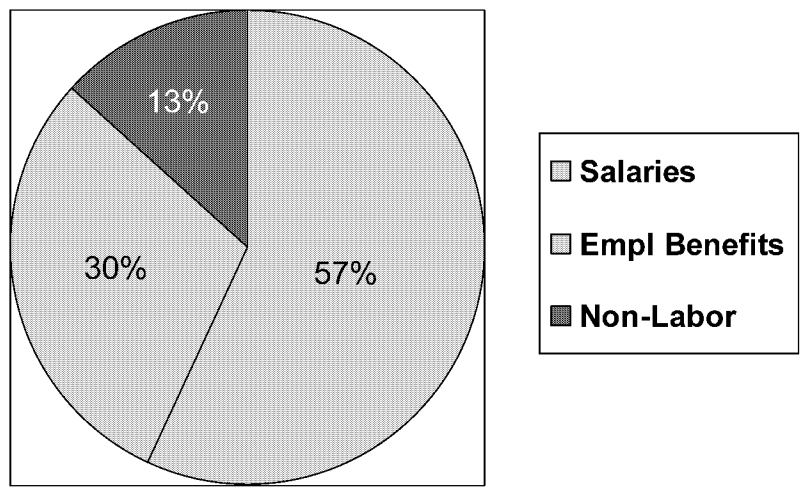
### Number of C&F Applicants



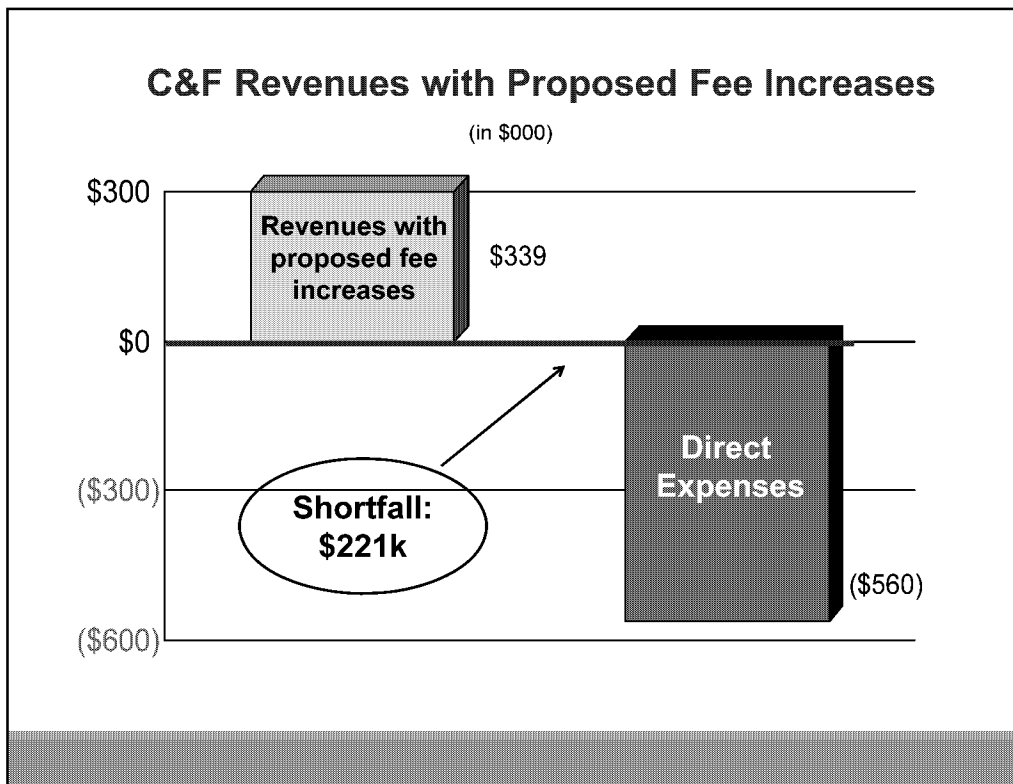
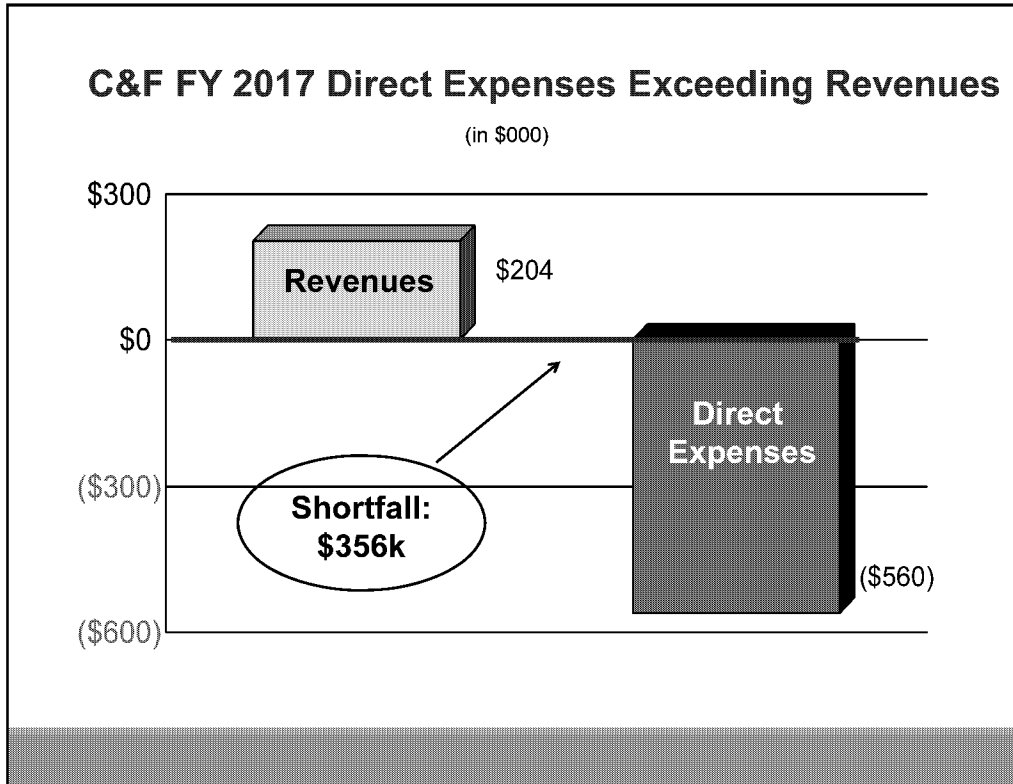
**Budgeted C&F FY 2017 Revenues: \$203,550**



**Budgeted C&F FY 2017 Direct Expenses: \$559,846**



**Note:** Non-Labor expense also includes the C&F IT automation project depreciation expense and credit card fees for online payment, in addition to the business expenses of the C&F operation.



**Conclusion:**

**The increases would put the SBM's C&F fees in line with other state jurisdictions.**

**Even with these increases, SBM would still have unrecovered direct C&F expenses of \$221k, at the current number of applicants (800 annually).**