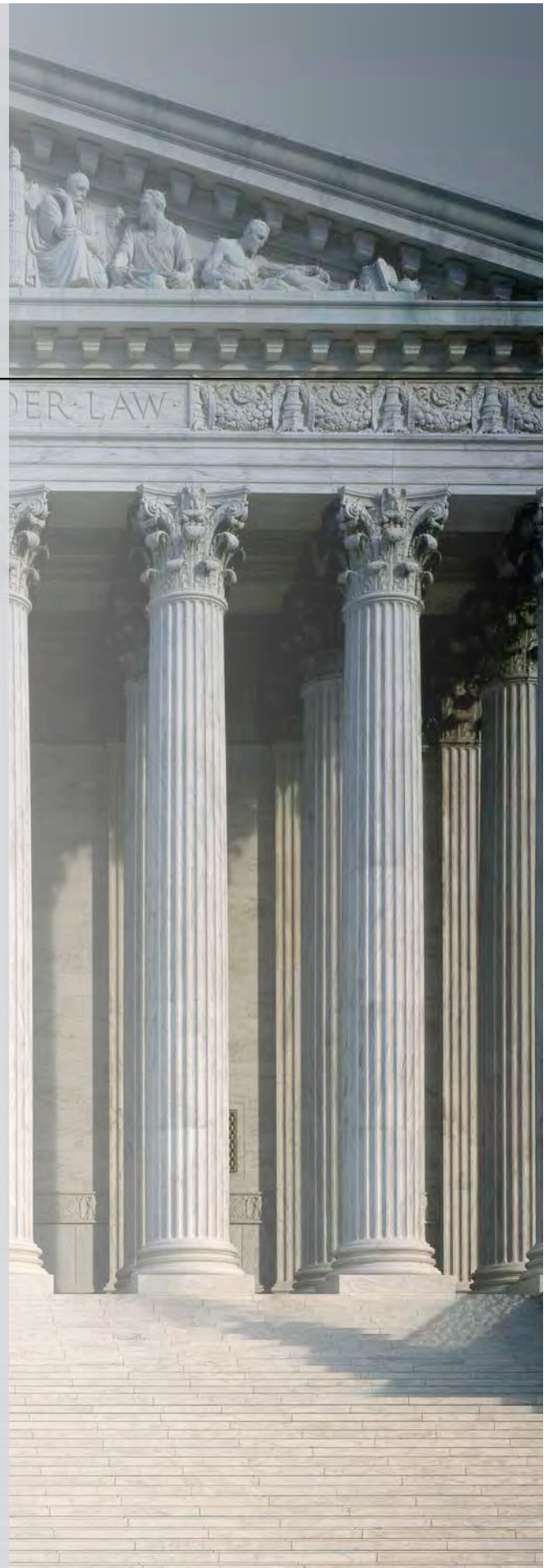


Mandatory State Bar Associations

# Managing Keller

The following information regarding mandatory bars and how they manage Keller related activities was compiled by State Bar of Michigan between February 2014 and May 2014. This was a significant research initiative to support the Michigan Supreme Court Task Force on the Role of the State Bar of Michigan. As information was gathered, executive directors from several state bars expressed an interest in receiving this compilation of material. We are pleased to share this information with those who find it useful. Please note that the State Bar of Michigan does not update this compilation as policies and statutes change in various states. Users are encouraged to check with the state bars directly to learn of any relevant changes.

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## MISSOURI BAR PROTEST AND DUES REFUND PROCEDURE

The following protest procedure is adopted by resolution of the Board of Governors of The Missouri Bar.

1. Each year in connection with the enrollment fee statement, the Executive Director of The Missouri Bar shall provide to the Clerk of the Supreme Court for inclusion in the dues statement a summary of the revenues and disbursements budgeted for the next year.
2. Where a member of The Missouri Bar believes that a specific activity of The Missouri Bar supported by enrollment fees is outside of The Missouri Bar's proper scope as an integrated bar, the member may direct a letter to the Executive Director, stating what activity is challenged.
3. Upon receipt of the member's letter, the Executive Director shall calculate the portion of the member's enrollment fee reasonably in dispute, place that amount in an interest-bearing escrow account, advise the member of the calculated amount of his or her enrollment fee which supports the activity and advise the member how this amount was calculated. The Executive Director shall then refer the matter to the Board of Governors or its Executive Committee for consideration.
4. If the member disagrees with the decision of the Board of Governors or its Executive Committee, or with the amount of any refund, the member may direct a letter to the Executive Director asking for confidential mediation. Upon receipt of such a letter, the Executive Director shall contact the member and attempt to agree upon a mediator with the member. If no mediator can be agreed upon within 30 days of receipt of such a letter, the Executive Director shall refer the matter to the Director of the Mediation Clinic at The Center for the Study of Dispute Resolution at the University of Missouri-Columbia School of Law for selection of a mediator. Fees for any mediator shall be shared equally by The Missouri Bar and the member.
5. If a refund is made, interest shall be calculated at the legal rate on the amount of the refund from the date that The Missouri Bar received the member's enrollment fee.

Adopted by the Board of Governors  
November 1, 1990  
Revised January 21, 2005  
Revised May 13, 2005



## **POLICY STATEMENT REGARDING LEGISLATIVE PROCEDURES**

Revised by the Board of Governors on February 24, 2012.

**The Missouri Bar limits its legislative activities to proposed legislation that affects the administration of justice, the integrity of the judiciary, or the dignity of the profession of law. In addition, The Missouri Bar may participate in legislative activities to improve the law through legislation which is drafted by Missouri Bar committees and endorsed by the Board of Governors and may respond to legislation which affects previously enacted bar-drafted legislation.**

Final determination of what legislation falls within the above definition and the priority to be given such legislation is within the jurisdiction of the Board of Governors of The Missouri Bar. The Board of Governors may determine to take no position on proposed legislation that is or may be factional, partisan, narrow in interest or as to which substantial constituencies of the bar may in good faith differ.

The Missouri Bar may take a position or action concerning proposed legislation only if either: (1) at a duly called meeting, the Board of Governors determines (a) by a vote of two-thirds of the Board of Governors present and voting that the proposed legislation concerns a proper subject matter, and (b) by a vote of two-thirds of the Board of Governors present and voting to take a position or action, or both; or (2) the Executive Committee determines (a) by an affirmative vote of at least four of its members, that the proposed legislation concerns a proper subject matter, and (b) by an affirmative vote of at least four of its members to take a position or action, or both. If there is ANY deviation from the deadlines for Missouri Bar committee drafted legislation set out in the following Policy Statement Regarding Legislative Procedures, the proposal must be specifically approved by the Executive Committee prior to being submitted to the Board of Governors. Use of the "Expedited Procedure" for any bar committee drafted proposal must also be specifically approved in advance by the Executive Committee. Actions taken by the Executive Committee shall be published on the Board of Governor's Listserve as soon as possible or, if a meeting of the Board is scheduled to be held shortly thereafter, the report may be given at such meeting.

### **I. MISSOURI BAR COMMITTEE DRAFTED LEGISLATION (How an Idea Becomes a Bill)**

#### **Regular Procedure**

All legislative proposals drafted by Missouri Bar committees must follow certain procedures and meet the following requirements:

#### **1. Initial Scope Review**

Prior to submitting any legislative proposal to the Senior Legislative Counsel, the idea for the proposal should be brought before the originating committee. Written notice should be given to all committee members prior to a vote taken regarding whether the area of law addressed by the proposal is in need of legislative change. If the committee, by a majority vote of members in

attendance at a committee meeting or participating in a vote by mail, supports the concept of the proposed legislation, the chair of the committee should transmit to the Senior Legislative Counsel, by letter or memorandum, a summary of the proposed legislation and a comprehensive explanatory statement describing the need or conditions the proposed legislation is to address, the manner in which it would revise and improve the current law, and its possible impact on other areas of the law.

Any proposal that has been approved in a previous year, but not enacted by the General Assembly, should be resubmitted if the committee desires to continue pursuing its enactment. Previously approved legislation need not be sent to local bar associations for comment unless the Board of Governors, Legislative Committee or Senior Legislative Counsel determines that such notice would be desirable.

These materials will be transmitted by the Senior Legislative Counsel to the Legislative Committee for an initial scope review. The purpose of this review is to determine whether the subject matter of the proposed legislation is within the scope of the legislative activities of The Missouri Bar, and to prevent a committee from devoting time and resources to a project that will ultimately be determined to be outside the scope.

The decision of the Legislative Committee will be communicated to the originating Missouri Bar committee chair by the Senior Legislative Counsel as soon as practicable.

If the Legislative Committee determines that the proposal is *outside* the scope, the originating Missouri Bar committee chair, or his designee, may appear before the Board of Governors in person or through the Board Liaison, to explain why the proposal would fall within the scope of legislative activities.

If the Legislative Committee determines that the proposal is *within* the scope, the Missouri Bar committee should proceed to prepare a draft of the proposed legislation, in bill form, with a committee report and comments. These materials should be sent to the Senior Legislative Counsel.

## **2. Distribution of Materials by the Senior Legislative Counsel**

The draft of the proposed legislation, in bill form, and explanatory materials are to be sent by the Senior Legislative Counsel to the Board of Governors, Legislative Committee, other interested Missouri Bar committees, and local bar associations for review and comment.

## **3. Redraft by Originating Missouri Bar Committee**

After comments have been received by the Senior Legislative Counsel and transmitted to the originating Missouri Bar committee chair, the originating Missouri Bar committee should review the comments and make any necessary changes in the draft. The draft of the legislation, in final bill form, must be reviewed and approved by a majority vote of committee members in attendance at a committee meeting or participating in a vote. Written notice that a vote will be taken should be provided to all committee members. The chair is then to submit the proposed legislation in *Final Bill Form* to the Senior Legislative Counsel along with a memorandum indicating any changes made and/or changes discussed and not made, and the reasons therefor.

Names of potential witnesses to appear before the General Assembly in support of the proposed legislation should also be sent to the Senior Legislative Counsel.

#### **4. Consideration by the Board of Governors**

The Senior Legislative Counsel will transmit the proposed legislation in final bill form, explanatory materials, and comments from the Legislative Committee, other interested Missouri Bar committees, and local bar associations to the Board of Governors for consideration.

The originating Missouri Bar committee chair, or his or her designee, should appear before the Board of Governors in person, to explain the proposal and seek approval by the Board for introduction of the proposal in the General Assembly.

The Board of Governors may approve, disapprove, defer action or refer the proposal back to the originating Missouri Bar committee for further study.

#### **Timetable**

For an idea to become a bill, it is anticipated that the procedure will take anywhere *from 12-18 months*.

If a Missouri Bar committee identifies a problem at the fall organizational meeting, it is *extremely unlikely* that a legislative proposal would be ready for introduction in the General Assembly immediately following; rather it would be introduced in the second session of the General Assembly following the original committee meeting.

*Example:* A proposal is suggested in November 2012, but would not be introduced until pre-filing begins (December 2013) for the General Assembly convening in January 2014.

If the problem is identified at the spring committee meeting, it would be *possible* to have a legislative proposal ready for introduction in the General Assembly immediately following, however it *more likely* would have to wait until the second session following the committee meeting.

*Example:* A proposal suggested in May 2012 *may* be ready for introduction when pre-filing begins (December 2012) for the General Assembly convening January 2013, but would *more likely* have to wait until pre-filing (December 2013) for the General Assembly convening January 2014.

Since the Missouri Bar year begins with the Annual Meeting (usually in late September) and new committee chairs are often appointed in October with the organizational meeting of the committee scheduled in November, it is nearly impossible to complete all the required steps before the following January.

The established timetable is important because it allows for thorough review by all the various groups whose comments are sought. *Especially important are the comments of the local bar associations, who often meet only monthly or bi-monthly.*

**DEADLINES ARE IMPORTANT AND MUST BE STRICTLY OBSERVED.**

**November**

Organizational committee meeting; proposals identified and brought before the originating committee. If the concept of the proposal is supported by a majority of committee members in attendance at a committee meeting or participating in a vote by mail, the proposal is communicated to the Senior Legislative Counsel who forwards it to Legislative Committee. Legislative Committee subsequently makes initial scope review.

Committee chair or Board Liaison may appear before Board of Governors at its next meeting if the Legislative Committee determines the suggested proposal is outside the scope of legislative activities of The Missouri Bar.

**December through May**

Missouri Bar committee drafts legislative proposal and explanatory materials.

**June 15**

Deadline for Missouri Bar committee to send draft of legislative proposal, in bill form, and explanatory materials to Senior Legislative Counsel for distribution to Board of Governors, Legislative Committee, other interested Missouri Bar committees and local bar associations for review.

**Midsummer Board of Governors' Meeting**

Proposed legislation, in bill form, is initially reviewed by Board of Governors. Any recommendations or comments of the Board are communicated by the Senior Legislative Counsel to the chair of the originating Missouri Bar committee.

Legislative Committee meets and reviews again scope and draftsmanship. Comments transmitted back to originating committee.

**August 15**

Deadline for originating Missouri Bar committee to send the legislative proposal, in final bill form, and explanatory materials to Senior Legislative Counsel for distribution to the Board of Governors. The proposal must have been endorsed by a majority vote of participating members of the originating committee prior to submission to the Board of Governors for final approval.

**Annual Meeting**

The Board of Governors considers the proposed legislation together with reports of the Legislative Committee, other interested Missouri Bar committees and local bar associations, and approves, disapproves, defers action or refers the proposal back to the originating Missouri Bar committee for further study.

### Expedited Procedure

In the event that an issue is identified after the June 15 deadline, and the originating Missouri Bar committee determines that a legislative proposal is *urgent*, the committee chair may seek to use the Expedited Procedure.

The Board of Governors, in its discretion, may consider a legislative proposal for introduction in the General Assembly immediately following.

The Expedited Procedure necessarily reduces the amount of time allowed for review and comment by the Board of Governors, the Legislative committee, other interested Missouri Bar committees, and *especially the local bar associations*. The comments of these various groups are actively sought and are important to the Board of Governors when action is taken.

Consequently, the Expedited Procedure will only be used for *urgent proposals*, not simply to accommodate a committee that failed to meet the deadlines established in the Regular Procedure. Use of the expedited procedure does not eliminate the requirement that the legislative proposal be approved by a majority of the participating members of the originating committee prior to submission to the Board of Governors for final approval.

### Expedited Procedure Timetable

#### **Post June 15**

Prior to submitting any legislative proposal to the Senior Legislative Counsel, the idea for the proposal should be brought before the originating committee and a vote taken regarding whether the area of law addressed by the proposal is in need of legislative change. If a majority of members in attendance at a committee or participating in a mail vote, supports the concept of the proposed legislation, the Missouri Bar committee chair shall transmit to Senior Legislative Counsel by letter or memorandum, a summary of the proposed legislation, and a comprehensive explanatory statement describing the need or condition the proposed legislation is to address, the manner it would revise and improve the current law, its possible impact on other areas of the law, *and an explanation of the emergency nature of the proposal*.

The Senior Legislative Counsel will transmit these materials to the Legislative Committee for an initial scope review, *if time permits*. The decision of the Legislative Committee will be communicated to the originating Missouri Bar Committee chair by the Senior Legislative Counsel as soon as practicable.

#### **September 1**

Deadline for Missouri Bar committee to send draft of legislative proposal, in bill form, and explanatory materials to Senior Legislative Counsel for distribution to Board of Governors, Legislative Committee, other interested Missouri Bar Committees and local bar associations.

Senior Legislative Counsel will transmit all recommendations or comments to the chair of the originating Missouri Bar committee as they are received. The originating Missouri Bar committee should review the comments and make any necessary changes in the draft.



The draft of the legislation, in final bill form, must be reviewed and approved by a majority vote of members in attendance at a committee meeting or participating in a mail vote prior to submission to the Board of Governors for final approval.

### **Annual Meeting**

Chair of the originating Missouri Bar committee, or the chair's designee, should appear before the Board of Governors, in person, to present the proposal and to explain its emergency nature.

The Board may approve or disapprove the proposal, or refer the proposal back to the originating Missouri Bar committee *because of insufficient time for consideration, or because the issue is not urgent.*

### **November 1**

Deadline for originating Missouri Bar committee to send the legislative proposal *in final bill form* to the Senior Legislative Counsel along with a memorandum indicating any changes made and/or changes discussed but not made, and the reasons therefore.

Names of potential witnesses to appear before the General Assembly in support of the proposed legislation should also be sent to the Senior Legislative Counsel.

### **November Board of Governors Meeting**

The Board of Governors considers the proposed legislation, together with the reports of the Legislative Committee, other interested Missouri Bar committees, and local bar associations.

The Board may approve or disapprove the proposal, or refer the proposal back to the originating Missouri Bar committee *because of insufficient time for consideration, or because the issue is not urgent.*

A committee may request the Board of Governors or the Executive Committee to waive its established legislative policy and approve a legislative proposal if the proposal is approved by a two-thirds majority vote of the originating committee and consists solely of a corrective amendment to previously passed bar drafted legislation.

The Board of Governors or Executive Committee shall implement this procedure only if it finds good cause to expedite submission of the proposal in the next regular session of the General Assembly without consideration by the Legislative Committee, other interested substantive committees and local bar associations and that waiver of the normal legislative procedure for submission of bar drafted legislation is in the best interest of The Missouri Bar.

## Duties and Responsibilities

### **Committee Officers**

1. List all legislative activities planned for the year in the summary of basic plans (see Form A in The Missouri Bar Committee Officers' Manual). This should be completed and returned by the end of the Annual Meeting, or as soon thereafter as is practicable.
2. Transmit to Senior Legislative Counsel, by letter or memorandum, a summary of the proposed legislation and comprehensive explanatory materials.  

All proposed legislation must be initially reviewed by the Legislative Committee to determine whether the proposal is within the scope of legislative activities of The Missouri Bar. (See Flow Chart for Bar Committee Drafted Legislation Regular Procedure, attached hereto.)
3. Not later than *June 15*, transmit to Senior Legislative Counsel a draft of legislative proposal, *in bill form*, and explanatory materials. (See Flow Chart for Bar Committee Drafted Legislation Regular Procedure, attached hereto.)
4. Not later than *August 15*, transmit to Senior Legislative Counsel the legislative proposal *in final bill form*, explanatory materials, and names of potential witnesses. (See Flow Chart for Bar Committee Drafted Legislation Regular Procedure, attached hereto.)
5. Keep the committee advised of the progress of all legislative proposals and ensure that such proposals are supported by a majority of the full committee prior to submission to the Board of Governors for final approval.
6. Appear or arrange to have another member of the committee appear before Board of Governors to present proposal, as needed. (See Flow Chart for Bar Committee Drafted Legislation Regular Procedure, attached hereto.)

### **Board Liaison to a Committee**

1. Attend all meetings of the committee to which the liaison has been assigned.
2. Advise and consult with the committee members of the committee to which he has been assigned on matters dealing with proposed legislation.
3. Arrange with committee chair for presentation of proposed legislative projects to Board of Governors for initial scope review. (See Flow Chart for Bar Committee Drafted Legislation Regular Procedure, attached hereto.)
4. Assist the committee chair in presenting to the Board of Governors the legislative proposals of the committee for consideration and approval. (See Flow Chart for Bar Committee Drafted Legislation Regular Procedure, attached hereto.)

### **Legislative Committee**

1. Make recommendations to the Board of Governors as to whether legislation or proposed legislation brought to its attention is within the scope of the legislative policy of The Missouri Bar.
2. Make recommendations to the Board of Governors as to whether it is appropriate to present the proposed legislation to the next General Assembly.

3. Report all action of the Standing Committee on Legislation to the Board of Governors with the committee's recommendations and a copy of the bill or proposed bill, together with explanatory statement.
4. The Legislative Committee shall be composed of members of the bar selected by the President.

#### **Senior Legislative Counsel**

1. Transmit to the Legislative Committee for initial scope review materials submitted by Missouri Bar committees. (See Flow Chart for Bar Committee Drafted Legislation Regular Procedure, attached hereto.)
2. Distribute proposed legislation, in bill form, and explanatory materials to the Board of Governors, Legislative Committee, other interested Missouri bar committees, and local bar associations for review and comment. (See Flow Chart for Bar Committee-Drafted Legislation Regular Procedure, attached hereto.)
3. Transmit comments received from the various groups to the originating Missouri Bar committee chair. (See Flow Chart for Bar Committee-Drafted Legislation Regular Procedure, attached hereto.)
4. Transmit proposed legislation, in final bill form, explanatory materials, and comments from the Legislative Committee, other interested Missouri Bar committees, and local bar associations to the Board of Governors for consideration. (See Flow Chart for Bar Committee Drafted Legislation Regular Procedure, attached hereto.)
5. Utilize appropriate publications of The Missouri Bar or, if necessary, a special mailing to inform Missouri Bar members concerning the legislation to be considered for approval by the Board of Governors at the Annual Meeting and of their opportunity to appear before the Board to express their individual views.
6. Obtain sponsors for the Missouri Bar committee drafted legislation and secure and furnish to the originating Missouri Bar committee such information as required to carry out its responsibilities.
7. Notify the originating Missouri Bar committee that sponsorship of its bills has been arranged and that the originating Missouri Bar committee is responsible for arranging witnesses and testimony for legislative hearings in the General Assembly.
8. Develop and make available to sponsors of legislation proposed by The Missouri Bar such statistical data and information as the sponsors may reasonably request.
9. Acquaint members of the bar with the need for and purpose of legislation proposed by The Missouri Bar.
10. Encourage and promote contacts by local bar associations with their legislators regarding pending legislation in which The Missouri Bar has an interest.
11. Regularly report and furnish to the Executive Director and to the Board of Governors progress and status reports concerning all legislation originating within The Missouri Bar or other legislation in which The Missouri Bar has a substantial interest.
12. Seek to develop with members of the General Assembly a relationship that will reflect favorably on The Missouri Bar and stimulate concern and interest in its objectives.

## II. LEGISLATION NOT DRAFTED BY MISSOURI BAR COMMITTEES

The duties and responsibilities of the committees, officers and staff of The Missouri Bar with respect to legislation arising outside The Missouri Bar shall be as follows:

### Senior Legislative Counsel

1. Study all bills introduced in the General Assembly, prepare a digest of those bills which are of general interest to The Missouri Bar and distribute such digest to all members of The Missouri Bar.
2. Keep a current calendar of all bills which are determined to be within the scope of legislative policy and of significant interest to The Missouri Bar. Notify appropriate Missouri Bar committee chairs and the Board of Governors of the legislative status of such bills by publication of a weekly status report.
3. Send to the Vice President, the Chair of the Legislative Committee, or their designees, copies of all bills which, in the opinion of the Senior Legislative Counsel or Legislative Counsel, affect the administration of justice, the integrity of the judiciary, improvement of the law, or the dignity of the profession.

### Senior Legislative Counsel, Vice President and Chair of the Legislative Committee

1. Upon receipt of bills described above, the Vice President, the Chair of the Legislative Committee, or their designees, shall promptly study the same to determine whether, in their opinion, the legislation proposed therein falls within the legislative scope of The Missouri Bar and promptly report that opinion to the Senior Legislative Counsel.
2. In the event the Vice President and Chair of the Legislative Committee, or their designees, agree that any bill received and studied by them is outside the legislative scope of The Missouri Bar no further action shall be required as respects that bill. All other bills sent to the Vice President, Chair of the Legislative Committee, or their designees, shall be sent by the Senior Legislative Counsel to the chair and/or legislative subcommittee of the appropriate committee(s) of the bar for review and comment.
3. Each committee and/or legislative subcommittee shall, prior to the next meeting of the Board of Governors or its Executive Committee, forward to the Senior Legislative Counsel their comments and analysis of each bill forwarded to them together with their recommendations whether The Missouri Bar should support, oppose or take no position with respect to each such bill. The committee chair and/or legislative subcommittee, whenever appropriate, shall express their views as to whether the subject matter of a bill is within the legislative scope of the bar.
4. Each member of the Legislative Committee shall promptly prepare and forward to the Senior Legislative Counsel his comments and recommendations regarding each bill forwarded to him by the Senior Legislative Counsel and shall also indicate views as to whether the subject matter of the bill is within the legislative scope of The Missouri Bar.
5. The report of the Legislative Committee and the recommendations of the committee chair and/or legislative subcommittee shall be forwarded by the Senior Legislative Counsel to each member of the Executive Committee.

### **The Executive Committee**

It is recognized that while The Missouri Bar speaks only through its Board of Governors, action may be taken on legislative proposals clearly within the scope of Missouri Bar legislative activities by the Executive Committee.

1. The report of the Legislative Committee and the comments and recommendations of the committee chair and/or legislative subcommittee concerning legislation arising outside the bar shall be studied by the Executive Committee which shall meet in the manner and at the time and place designated by the President. At such meeting the Executive Committee may determine that The Missouri Bar should support, oppose or take no position regarding each item of legislation being considered by it. The Executive Committee shall again consider whether the bill addresses matters within the legislative scope of The Missouri Bar.
2. Testimony concerning legislation on which the Executive Committee has determined should be supported or opposed shall be prefaced by a statement: "These are the views of the Executive Committee of The Missouri Bar, composed of members of the Board of Governors. Because of the shortness of time, these views have not been considered by all of the members of the Board of Governors of The Missouri Bar."
3. A full report of the action taken by the Executive Committee shall be published on the Board of Governors Listserve as soon as possible or, if a meeting of the Board is scheduled to be held shortly thereafter, the report may be given at such meeting.

### **The persons authorized to appear and testify before any legislative committee, commission or other tribunal as a spokesman for The Missouri Bar shall be:**

1. The officers of The Missouri Bar or their designees;
2. The Executive Director and Senior Legislative Counsel and Legislative Counsel of The Missouri Bar and such other members of The Missouri Bar staff as may from time to time be specifically designated;
3. Any person specifically designated by the Board of Governors, the Executive Committee, the Executive Director, or the Senior Legislative Counsel or Legislative Counsel of The Missouri Bar.

The testimony of any person hereby authorized to appear and testify on behalf of The Missouri Bar shall be supportive of and in conformity with the policy position approved by the Board of Governors, or by the Executive Committee in the event the bar's position is determined in accordance with the provisions outlined above.