

STATE BAR ASSOCIATION OF NORTH DAKOTA LEGISLATIVE POLICY

The stated objectives of the State Bar Association of North Dakota include promotion of the administration of justice and upholding the honor of the profession. In order to effectively accomplish these goals it is often necessary to deal in the legislative arena.

As an integrated bar, the State Bar Association of North Dakota endeavors to speak for the Association as a whole, while fully recognizing that it is a practical impossibility to gain unanimity of opinion on almost any issue. The most controversial issues are almost always the most divisive and they are also invariably the ones that the Association is asked to comment on. While it is gratifying to note that the Association's judgment is welcomed and sought after in many of these difficult issues, this policy is intended to set parameters for Association legislative activities and make the work of the Legislative Committee and the professional staff manageable.

Since the Association's role in legislative proposals properly should vary depending upon the nature of the proposal under consideration, the legislative policy delineates categories of legislation and the parameters for Association action. While recognizing that clear categorical lines are difficult, the Association should generally posture itself as follows:

1. Generally the expertise of the Association's committees, sections and members is respected and welcomed by the legislature. This is especially true with the myriad of bills dealing with the complex laws affecting commerce - the Uniform Commercial Code, trade regulation and business organization laws, laws relating to estates and trusts - or those particularly affecting the practice of law - regulation of attorneys, budget appropriation for the judiciary and legal aid, proposed changes in litigation procedures, regulation of attorney's client trust accounts or law school and bar admission standards.

Legislators and legislative committees often seek out the views of knowledgeable representatives of the Association in these areas and pay close attention to their recommendations. Within that framework the Association does have a significant impact on legislation and will maintain an aggressive policy of supporting, opposing and proposing legislation in this area.

2. When it comes to broader issues of social policy the Association's role and influence is necessarily different. These are issues that generally have strong political overtones. In these areas the Association may be viewed more as a special interest group than as a body of experts. The Association will take great pains to recognize this important distinction, and will generally avoid taking positions on issues of this nature.

3. A third category of legislative proposals are those which may be termed "technical" issues. These are bills affecting specific areas of the law in which various sections or committees have a particular interest and expertise. The key consideration as to these matters is for the Association not to act as a "lobbyist" in the popular sense of the word, but rather to offer its expertise and informed judgment to the legislative body. Representatives of the Association may be invited to impartially explain the probable legal consequences of the legislative proposal or legislation.

It is further the policy of the Association that decision-making on important issues be broad based, and that the views of individual members be taken into account. The Legislative Committee should endeavor throughout the interim to identify the major issues to come before the next legislative session and invite discussion of these matters by the General Assembly. This discussion may come in the form of committee or special reports or other programs, and after ample notice to the full membership and the opportunity for full discussion a vote will be taken as to the position of the membership on these issues.

The Legislative Committee and the Board of Governors are empowered to consider any and all legislation that is considered by interim committees or is introduced during a legislative session and may seek the introduction of legislation the Association favors. The Association ought not however, become actively involved in every issue that remotely may affect lawyers and it must be especially circumspect regarding measures that are likely to be regarded by the legislature as having significant political importance - those on which other pressure groups are expected to have strong views. It is necessarily a balancing process in which clear guidelines are hard to articulate. In deciding to press a point of view the Association shall consider (1) how and to what degree the matter really affects the vital concerns of lawyers (2) whether the Association, in any contact with the legislature, is likely to be regarded as merely an interest group or as a more impartial (and, therefore, more credible) expert and (3) what the likelihood is that the Association's efforts will be successful.

Any member of the Association who dissents from a position on any legislative matter and records that opposition in writing to the Executive Director may receive a refund of that portion of his or her dues which would otherwise be used in Association legislative activities.