

AMENDED IN ASSEMBLY APRIL 29, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1708

Introduced by Committee on Judiciary (Corbett (Chair), Dutra, Hancock, Jackson, Laird, Longville, Montanez, Steinberg, and Vargas)

February 26, 2003

An act to amend ~~Section~~ Sections 6031.5, 6065, 6086.10, 6140, 6140.5, 6145, and 6234 of the Business and Professions Code, relating to attorneys.

LEGISLATIVE COUNSEL'S DIGEST

AB 1708, as amended, Committee on Judiciary. State Bar of California: ~~annual membership fee.~~

Existing law, the State Bar Act, provides for the licensing and regulation of attorneys by the State Bar of California and establishes the Conference of Delegates of the State Bar. Existing law also establishes certain provisions applicable to a nonprofit successor entity of the Conference of Delegates if it is incorporated.

This bill would delete provisions regarding the Conference of Delegates of the State Bar. The bill would specify the Conference of Delegates of California Bar Associations as the successor entity of the Conference of Delegates.

Existing law, until January 1, 2004, gives an unsuccessful applicant for admission to the State Bar of California the right to inspect, within 4 months after the results of the examination have been declared, his or her examination papers that are in the actual, physical possession of the examining committee. Commencing January 1, 2004, existing law gives

an unsuccessful applicant the right to inspect any of his or her examination documents within 4 months after the results of the examination have been declared.

This bill would instead make this change on January 1, 2009.

Existing law authorizes the State Bar to issue an order of public reproof against a state bar member and authorizes an order of public reproof that imposes discipline or accepts resignation with a disciplinary matter pending to include a direction that the member pay costs.

This bill would make an order meeting that criteria enforceable as a money judgment and authorize it to be included in the individual's membership fee. The bill would declare that costs are penalties payable to the State Bar to promote rehabilitation and to protect the public.

Existing law authorizes the State Bar of California, until January 1, 2004, to charge an annual membership fee of up to \$310 to active members of the State Bar.

This bill would extend the State Bar's authority to charge this membership fee to December 31, 2004.

Existing law establishes the Client Security Fund to relieve or mitigate losses caused by the dishonest conduct of members of the State Bar in the practice of law. Existing law requires an attorney to reimburse the fund for money paid as a result of his or her conduct as a condition of continued practice.

This bill would authorize an assessment for reimbursement to be enforced as a money judgment if it is part of an order imposing public reproof or part of an order imposing discipline or accepting resignation with a disciplinary matter pending.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 6031.5 of the Business and Professions*
2 *Code is amended to read:*
3 ~~6031.5. (a) The Conference of Delegates, as established~~
4 ~~under and pursuant to Article 6 of the Rules and Regulations of the~~
5 ~~State Bar, shall not be funded after January 1, 2000, with~~
6 ~~mandatory fees collected pursuant to subdivision (a) of Section~~
7 ~~6140.~~



1 ~~The State Bar may provide the Conference of Delegates with~~
2 ~~administrative and support services, provided the State Bar shall~~
3 ~~be reimbursed for the full cost of those services out of funds~~
4 ~~collected pursuant to subdivision (c), funds raised by or through~~
5 ~~the activities of the Conference of Delegates, or other funds~~
6 ~~collected from voluntary sources. The financial audit specified in~~
7 ~~Section 6145 shall confirm that the amount assessed by the State~~
8 ~~Bar for providing the services reimburses the costs of providing~~
9 ~~them, and shall verify that mandatory dues are not used to fund the~~
10 ~~Conference of Delegates.~~

11 ~~(b)~~ State Bar sections, as established under and pursuant to
12 Article 13 of the Rules and Regulations of the State Bar, and their
13 activities shall not be funded after January 1, 2000, with
14 mandatory fees collected pursuant to subdivision (a) of Section
15 6140.

16 The State Bar may provide an individual section, or two or more
17 sections collectively, with administrative and support services,
18 provided the State Bar shall be reimbursed for the full cost of those
19 services out of funds collected pursuant to subdivision ~~(c)~~ (b),
20 funds raised by or through the activities of the sections, or other
21 funds collected from voluntary sources. The financial audit
22 specified in Section 6145 shall confirm that the amount assessed
23 by the State Bar for providing the services reimburses the costs of
24 providing them, and shall verify that mandatory dues are not used
25 to fund the sections.

26 ~~(c)~~
27 (b) Notwithstanding the other provisions of this section, the
28 State Bar is expressly authorized to collect voluntary fees to fund
29 the ~~Conference of Delegates or the State Bar sections~~ on behalf of
30 those organizations in conjunction with the State Bar's collection
31 of its annual membership dues. Funds collected pursuant to this
32 subdivision, and other funds raised by or through the activities of
33 the ~~Conference of Delegates or sections~~, or collected from
34 voluntary sources, for their support or operation, shall not be
35 subject to the expenditure limitations of subdivision (b) of Section
36 6140.05.

37 ~~(d)~~
38 (c) Notwithstanding any other provision of law, ~~if an~~
39 ~~independent nonprofit successor entity to the Conference of~~
40 ~~Delegates, as referenced in subdivision (a), is incorporated for the~~



1 ~~purposes of aiding in matters pertaining to the advancement of the~~
2 ~~science of jurisprudence or to the improvement of the~~
3 ~~administration of justice~~; the State Bar is expressly authorized to
4 collect, in conjunction with the State Bar's collection of its annual
5 membership dues, voluntary fees or donations on behalf of the
6 *Conference of Delegates of California Bar Associations, the*
7 *independent nonprofit successor entity to the former Conference*
8 *of Delegates of the State Bar which has been incorporated for the*
9 *purposes of aiding in matters pertaining to the advancement of the*
10 *science of jurisprudence or to the improvement of the*
11 *administration of justice*, and to convey any unexpended voluntary
12 fees or donations previously made to the Conference of Delegates
13 *of the State Bar* pursuant to this section to the ~~successor entity~~
14 *Conference of Delegates of California Bar Associations*. The
15 ~~successor entity~~ *Conference of Delegates of California Bar*
16 *Associations* shall pay for the cost of the collection. The State Bar
17 and the ~~successor entity~~ *Conference of Delegates of California Bar*
18 *Associations* may also contract for other services. The financial
19 audit specified in Section 6145 shall confirm that the amount of
20 any contract shall fully cover the costs of providing the services,
21 and shall verify that mandatory dues are not used to fund any
22 successor entity.

23 ~~(e) Any~~

24 *(d) The Conference of Delegates of California Bar*
25 *Associations, which is the independent nonprofit successor entity*
26 *to the former Conference of Delegates, of the State Bar* as
27 referenced in subdivision ~~(d)~~, ~~shall be~~ *(c)*, is a voluntary
28 association and ~~shall~~, is not be a part of the State Bar of California,
29 ~~nor and shall not be~~ funded in any way through mandatory dues
30 collected by the State Bar of California. Any contribution or
31 membership option included with a State Bar of California
32 mandatory dues billing statement shall include a statement that the
33 Conference of Delegates ~~or its successor entity~~ *of California Bar*
34 *Associations* is not a part of the State Bar of California and that
35 membership in that organization is voluntary.

36 *SEC. 2. Section 6065 of the Business and Professions Code,*
37 *as amended by Section 6 of Chapter 415 of the Statutes of 2002,*
38 *is amended to read:*

39 6065. (a) (1) Any unsuccessful applicant for admission to
40 practice, after he or she has taken any examination and within four



1 months after the results thereof have been declared, has the right
2 to inspect those of his or her examination papers that are in the
3 actual, physical possession of the examining committee at the time
4 the request for inspection is made. The inspection shall occur at the
5 office of the examining committee located nearest to the place at
6 which the applicant took the examination.

7 (2) The applicant also has the right to inspect the grading of the
8 papers whether the record thereof is marked upon the examination
9 or otherwise.

10 (b) This section shall remain in effect only until January 1,
11 ~~2004~~ 2009, and as of that date is repealed, unless a later enacted
12 statute, that is enacted before January 1, ~~2004~~ 2009, deletes or
13 extends that date.

14 *SEC. 3. Section 6065 of the Business and Professions Code,*
15 *as added by Section 7 of Chapter 415 of the Statutes of 2002, is*
16 *amended to read:*

17 6065. (a) (1) Any unsuccessful applicant for admission to
18 practice, after he or she has taken any examination and within four
19 months after the results thereof have been declared, has the right
20 to inspect his or her examination papers at the office of the
21 examining committee located nearest to the place at which the
22 applicant took the examination.

23 (2) The applicant also has the right to inspect the grading of the
24 papers whether the record thereof is marked upon the examination
25 or otherwise.

26 (b) This section shall become operative on January 1, ~~2004~~
27 2009.

28 *SEC. 4. Section 6086.10 of the Business and Professions Code*
29 *is amended to read:*

30 6086.10. (a) Any order imposing a public reproof on a
31 member of the State Bar shall include a direction that the member
32 shall pay costs. In any order imposing discipline, or accepting a
33 resignation with a disciplinary matter pending, the Supreme Court
34 shall include a direction that the member shall pay costs. *An order*
35 *pursuant to this subdivision is enforceable both as provided in*
36 *Section 6140.7 and as a money judgment pursuant to Division 2*
37 *(commencing with Section 695.010) of the Code of Civil*
38 *Procedure.*

39 (b) The costs required to be imposed pursuant to this section
40 include all of the following:



1 (1) The actual expense incurred by the State Bar for the original
2 and copies of any reporter's transcript of the State Bar
3 proceedings, and any fee paid for the services of the reporter.

4 (2) All expenses paid by the State Bar which would qualify as
5 taxable costs recoverable in civil proceedings.

6 (3) The charges determined by the State Bar to be "reasonable
7 costs" of investigation, hearing, and review. These amounts shall
8 serve to defray the costs, other than fees for the services of
9 attorneys or experts, of the State Bar in the preparation or hearing
10 of disciplinary proceedings, and costs incurred in the
11 administrative processing of the disciplinary proceeding and in the
12 administration of the client security fund.

13 (c) A member may be granted relief, in whole or in part, from
14 an order assessing costs under this section, or may be granted an
15 extension of time to pay these costs, in the discretion of the State
16 Bar, upon grounds of hardship, special circumstances, or other
17 good cause.

18 (d) In the event an attorney is exonerated of all charges
19 following a formal hearing, he or she is entitled to reimbursement
20 from the State Bar in an amount determined by the State Bar to be
21 the reasonable expenses, other than fees for attorneys or experts,
22 of preparation for the hearing.

23 (e) *In addition to other monetary sanctions as may be ordered*
24 *by the Supreme Court pursuant to Section 6086.13, costs imposed*
25 *pursuant to this section are penalties, payable to and for the benefit*
26 *of the State Bar of California, a governmental unit, to promote*
27 *rehabilitation and to protect the public. This subdivision is*
28 *declaratory of existing law.*

29 *SEC. 5.* Section 6140 of the Business and Professions Code is
30 amended to read:

31 6140. (a) The board shall fix the annual membership fee for
32 active members at a sum not exceeding three hundred ten dollars
33 (\$310).

34 (b) The annual membership fee for active members is payable
35 on or before the first day of February of each year. If the board
36 finds it appropriate and feasible, it may provide by rule for
37 payment of fees on an installment basis with interest, by credit
38 card, or other means, and may charge members choosing any
39 alternative method of payment an additional fee to defray costs
40 incurred by that election.



1 (c) This section shall remain in effect only until January 1,
2 2005, and as of that date is repealed, unless a later enacted statute,
3 that is enacted before January 1, 2005, deletes or extends that date.

4 *SEC. 6. Section 6140.5 of the Business and Professions Code*
5 *is amended to read:*

6 6140.5. (a) The board shall establish and administer a Client
7 Security Fund to relieve or mitigate pecuniary losses caused by the
8 dishonest conduct of the active members of the State Bar arising
9 from or connected with the practice of law. Any payments from the
10 fund shall be discretionary and shall be subject to such regulation
11 and conditions as the board shall prescribe. The board may
12 delegate the administration of the fund to the State Bar Court, or
13 to any board or committee created by the board of governors.

14 (b) Upon making a payment to a person who has applied to the
15 fund for payment to relieve or mitigate pecuniary losses caused by
16 the dishonest conduct of an active member of the State Bar, the
17 State Bar is subrogated, to the extent of that payment, to the rights
18 of the applicant against any person or persons who, or entity that,
19 caused the pecuniary loss. The State Bar may bring an action to
20 enforce those rights within three years from the date of payment
21 to the applicant.

22 (c) Any attorney whose actions have caused the payment of
23 funds to a claimant from the client security fund shall reimburse
24 the fund for all moneys paid out as a result of his or her conduct
25 with interest, in addition to payment of the assessment for the
26 procedural costs of processing the claim, as a condition of
27 continued practice. The reimbursed amount, plus applicable
28 interest and costs, shall be added to and become a part of the
29 membership fee of a publicly reprovved or suspended member for
30 the next calendar year. For a member who resigns with disciplinary
31 charges pending or a member who is suspended or disbarred, the
32 reimbursed amount, plus applicable interest and costs, shall be
33 paid as a condition of reinstatement of membership.

34 (d) *Any assessment against an attorney pursuant to subdivision*
35 *(c) that is part of an order imposing a public reprovval on a member*
36 *or is part of an order imposing discipline or accepting a*
37 *resignation with a disciplinary matter pending, may also be*
38 *enforced as a money judgment pursuant to Division 2*
39 *(commencing with Section 695.010) of the Code of Civil*
40 *Procedure.*

1 SEC. 7. Section 6145 of the Business and Professions Code is
2 amended to read:

3 6145. (a) The board shall contract with a nationally
4 recognized independent public accounting firm for an audit of its
5 financial statement for each fiscal year beginning after December
6 31, 1998. The financial statement shall be promptly certified under
7 oath by the treasurer of the State Bar, and a copy of the audit and
8 financial statement shall be submitted within 120 days of the close
9 of the fiscal year to the board, the Chief Justice of the Supreme
10 Court, and to the Assembly and Senate Committees on Judiciary.

11 The audit shall examine the receipts and expenditures of the
12 State Bar, ~~the Conference of Delegates~~, and the State Bar sections,
13 to assure that the receipts of the ~~Conference of Delegates and the~~
14 sections are being applied, and their expenditures are being made,
15 in compliance with ~~subdivisions~~ *subdivision (a) and (b)* of Section
16 6031.5, and that the receipts of the ~~Conference of Delegates and~~
17 ~~the receipts of the sections~~ are applied only to the work of the
18 ~~Conference of Delegates and the sections, respectively.~~

19 Pursuant to ~~subdivision (d) of Section 6031.5, if an independent~~
20 ~~nonprofit successor entity to the Conference of Delegates is~~
21 ~~incorporated, the~~ *The audit also* shall examine the receipts and
22 expenditures of the State Bar to ensure that the funds collected on
23 behalf of the ~~successor entity~~ *Conference of Delegates of*
24 *California Bar Associations as the independent successor entity to*
25 *the former Conference of Delegates of the State Bar* are conveyed
26 to that entity, that the State Bar has been paid or reimbursed for the
27 full cost of any administrative and support services provided to the
28 successor entity, including the collection of fees or donations on
29 its behalf, and that no mandatory dues are being used to fund the
30 activities of the successor entity.

31 (b) The board shall contract with the Bureau of State Audits to
32 conduct a performance audit of the State Bar's operations from
33 July 1, 2000, to December 31, 2000, inclusive. A copy of the
34 performance audit shall be submitted by May 1, 2001, to the board,
35 to the Chief Justice of the Supreme Court, and to the Assembly and
36 Senate Committees on Judiciary.

37 Every two years thereafter, the board shall contract with the
38 Bureau of State Audits to conduct a performance audit of the State
39 Bar's operations for the respective fiscal year, commencing with
40 January 1, 2002, through December 31, 2002, inclusive. A copy



1 of the performance audit shall be submitted within 120 days of the
2 close of the fiscal year for which the audit was performed to the
3 board, to the Chief Justice of the Supreme Court, and to the
4 Assembly and Senate Committees on Judiciary.

5 For the purposes of this subdivision, the Bureau of State Audits
6 may contract with a third party to conduct the performance audit.
7 This subdivision is not intended to reduce the number of audits the
8 Bureau of State Audits may otherwise be able to conduct.

9 *SEC. 8. Section 6234 of the Business and Professions Code is*
10 *amended to read:*

11 6234. Any information provided to or obtained by the
12 Attorney Diversion and Assistance Program, or any subcommittee
13 or agent thereof, shall be as follows:

14 (a) Confidential and this confidentiality shall be absolute
15 unless waived by the attorney.

16 (b) Exempt from the provisions of Section 6086.1.

17 (c) Not discoverable or admissible in any civil proceeding
18 without the written consent of the attorney to whom the
19 information pertains.

20 (d) Not discoverable or admissible in any disciplinary
21 proceeding without the written consent of the attorney to whom the
22 information pertains.

23 (e) Except with respect to the provisions of subdivision ~~(e)~~ (d)
24 of Section 6232, the limitations on the disclosure and admissibility
25 of information in this section shall not apply to information
26 relating to an attorney's noncooperation with, or unsuccessful
27 completion of, the Attorney Diversion and Assistance Program, or
28 any subcommittee or agent thereof, or to information otherwise
29 obtained by the Office of the Chief Trial Counsel, by independent
30 means, or from any other lawful source.

