

AMENDED IN SENATE JUNE 18, 2014

AMENDED IN ASSEMBLY MAY 12, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2746

**Introduced by Committee on Judiciary (Assembly Members
Wieckowski (Chair), Alejo, Chau, Dickinson, Garcia, Muratsuchi,
and Stone)**

March 4, 2014

An act to amend Sections ~~6140 and 6140.03~~ of 6031, 6033, 6073, 6140, 6140.03, 6216, and 6218 of, and to add Section 6140.04 to, the Business and Professions Code, relating to attorneys.

LEGISLATIVE COUNSEL'S DIGEST

AB 2746, as amended, Committee on Judiciary. Attorneys: annual membership fees.

Existing law, the State Bar Act, provides for the licensure and regulation of attorneys by the State Bar of California, a public corporation. The State Bar is governed by a board of trustees. *Existing law authorizes the board, among other duties, to aid in all matters pertaining to the improvement of the administration of justice, including all matters that may advance the professional interests of the members of the State Bar.* Existing law, until January 1, 2015, requires the board to charge an annual membership fee for active members of up to \$315 for 2014. Existing law requires the board to charge an annual membership fee for inactive members of up to \$75.

This bill would authorize the board to collect reasonable charges from members with respect to all matters incident to licensing, regulation, and discipline, and would include the voluntary support

and delivery of legal services to indigent persons, among other duties of the board. The bill would, until January 1, 2016, require the board to charge the annual membership fee for active members described above for 2015.

Existing law requires the board to increase each of the annual membership fees described above by an additional \$30, to be allocated only to support nonprofit organizations that provide free legal services to persons of limited means, except to the extent that a member elects not to support those activities. Existing law requires that the invoice provided to members for payment of the annual membership fee provide each member the option of deducting \$30 from the annual membership fee if the member elects not to have this amount allocated for these purposes. *Existing law also requires the State Bar to pay administrative costs from funds received to provide civil legal services to indigent persons before paying other specified costs in connection with the program.*

This bill would increase that optional, additional amount to \$38. *The bill would add \$7 to the annual membership fees for active members to be allocated only for the purpose of paying the administrative costs of the programs of the State Bar. The bill would also delete provisions requiring the State Bar to pay administrative costs before paying other specified costs from funds received to provide civil legal services to indigent persons, as specified. The bill would make other related changes.*

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 of the Business and Professions
2 Code is amended to read:
3 6031. (a) The board may aid in *and collect reasonable charges*
4 *authorized by statute from members with respect to all matters*
5 *incident to licensing, regulation, and discipline, including all*
6 *matters pertaining to the advancement of the science of*
7 *jurisprudence or to the improvement of the administration of*
8 *justice, including, but not by way of limitation, all matters that*
9 *may advance the professional interests and responsibilities of the*
10 *members of the State Bar, the support and delivery of legal services*
11 *to indigent persons, including qualified nonprofit legal aid*

1 *organizations and pro bono, the advancement of equal access, and*
2 *such matters as concern the relations of the bar with the public.*

3 (b) Notwithstanding this section or any other ~~provision of law,~~
4 the board shall not conduct or participate in, or authorize any
5 committee, agency, employee, or commission of the State Bar to
6 conduct or participate in any evaluation, review, or report on the
7 qualifications, integrity, diligence, or judicial ability of any specific
8 justice of a court provided for in Section 2 or 3 of Article VI of
9 the California Constitution without prior review and statutory
10 authorization by the Legislature.

11 ~~The provisions of this~~

12 ~~This subdivision shall does not be construed to prohibit a member~~
13 ~~of the State Bar from conducting or participating in such an~~
14 ~~evaluation, review, or report in his or her individual capacity.~~

15 ~~The provisions of this~~

16 ~~This subdivision shall does not be construed to prohibit an~~
17 ~~evaluation of potential judicial appointees or nominees as~~
18 ~~authorized by Section 12011.5 of the Government Code.~~

19 *SEC. 2. Section 6033 of the Business and Professions Code is*
20 *amended to read:*

21 6033. (a) Notwithstanding any other ~~provision of law,~~ the
22 State Bar is expressly authorized to facilitate the professional
23 responsibilities of members by collecting, in conjunction with the
24 State Bar's collection of its annual membership dues or otherwise,
25 voluntary financial support for nonprofit organizations that provide
26 free legal services to persons of limited means. *All funds received*
27 *for programs related to this section shall be devoted to the support*
28 *of qualified legal services projects without deduction for*
29 *administrative fees, costs, or expenses by the State Bar.*

30 (b) To implement this section, the State Bar, in consultation
31 with the Chief Justice of California, shall appoint a task force of
32 key stakeholders to analyze the mechanisms and experience of bar
33 associations that have adopted programs for the collection of
34 financial contributions from bar members and shall propose an
35 appropriate method for facilitating the collection and distribution
36 of voluntary contributions that is best calculated to generate the
37 greatest level of financial support and participation from State Bar
38 members, taking into account such issues as the justice-gap
39 between the legal needs of low-income people in California and
40 the legal resources available to assist them. The method and any

1 recommended voluntary contribution amount adopted by the Board
2 of Trustees of the State Bar of California shall be implemented for
3 the 2008 fiscal year, and shall be reviewed and adjusted as needed
4 after two years and, thereafter, every five years as needed, in
5 consultation with affected service providers and other key
6 stakeholders.

7 *SEC. 3. Section 6073 of the Business and Professions Code is*
8 *amended to read:*

9 6073. It has been the ~~tradition~~ *traditional obligation* of those
10 learned in the law and licensed to practice law in this state to
11 provide voluntary pro bono legal services to those who cannot
12 afford the help of a lawyer. Every lawyer authorized and privileged
13 to practice law in California is expected to make a contribution.
14 In some circumstances, it may not be feasible for a lawyer to
15 directly provide pro bono services. In those circumstances, a lawyer
16 may instead fulfill his or her individual pro bono ethical
17 commitment, in part, by providing financial support to
18 organizations providing free legal services to persons of limited
19 means. In deciding to provide that financial support, the lawyer
20 should, at minimum, approximate the value of the hours of pro
21 bono legal service that he or she would otherwise have provided.
22 In some circumstances, pro bono contributions may be measured
23 collectively, as by a firm's aggregate pro bono activities or
24 financial contributions. Lawyers also make invaluable contributions
25 through their other voluntary public service activities that increase
26 access to justice or improve the law and the legal system. In view
27 of their expertise in areas that critically affect the lives and
28 well-being of members of the public, lawyers are uniquely situated
29 to provide invaluable assistance in order to benefit those who might
30 otherwise be unable to assert or protect their interests, and to
31 support those legal organizations that advance these goals.

32 **SECTION 4.**

33 *SEC. 4. Section 6140 of the Business and Professions Code is*
34 *amended to read:*

35 6140. (a) The board shall fix the annual membership fee for
36 active members for 2015 at a sum not exceeding three hundred
37 fifteen dollars (\$315).

38 (b) The annual membership fee for active members is payable
39 on or before the first day of February of each year. If the board
40 finds it appropriate and feasible, it may provide by rule for payment

1 of fees on an installment basis with interest, by credit card, or other
2 means, and may charge members choosing any alternative method
3 of payment an additional fee to defray costs incurred by that
4 election.

5 (c) This section shall remain in effect only until January 1, 2016,
6 and, as of that date, is repealed, unless a later enacted statute, that
7 is enacted before January 1, 2016, deletes or extends that date.

8 ~~SEC. 2.~~

9 *SEC. 5.* Section 6140.03 of the Business and Professions Code
10 is amended to read:

11 6140.03. (a) The board shall increase each of the annual
12 membership fees fixed by Sections 6140 and 6141 by an additional
13 thirty-eight dollars (\$38), to be allocated only for the purposes
14 established pursuant to Section 6033, except to the extent that a
15 member elects not to support those activities.

16 (b) The invoice provided to members for payment of the annual
17 membership fee shall provide each member the option of deducting
18 thirty-eight dollars (\$38) from the annual membership fee if the
19 member elects not to have this amount allocated for the purposes
20 established pursuant to Section 6033.

21 *SEC. 6.* Section 6140.04 is added to the Business and
22 Professions Code, to read:

23 6140.04. Seven dollars (\$7) shall be added to the annual
24 membership fees fixed by Section 6140 to be allocated only for the
25 purpose of paying the administrative costs of the programs of the
26 State Bar.

27 *SEC. 7.* Section 6216 of the Business and Professions Code is
28 amended to read:

29 6216. The State Bar shall distribute all moneys received under
30 the program established by this article for the provision of civil
31 legal services to indigent persons. The funds first shall be
32 distributed 18 months from the effective date of this article, or
33 upon such a date, as shall be determined by the State Bar, that
34 adequate funds are available to initiate the program. Thereafter,
35 the funds shall be distributed on an annual basis. All distributions
36 of funds shall be made in the following order and in the following
37 manner:

38 ~~(a) To pay the actual administrative costs of the program,~~
39 ~~including any costs incurred after the adoption of this article and~~
40 ~~a reasonable reserve therefor.~~

1 (b)

2 (a) Eighty-five percent of the funds ~~remaining after payment~~
3 ~~of administrative costs~~ allocated pursuant to this article shall be
4 distributed to qualified legal services projects. Distribution shall
5 be by a pro rata county-by-county formula based upon the number
6 of persons whose income is 125 percent or less of the current
7 poverty threshold per county. For the purposes of this section, the
8 source of data identifying the number of persons per county shall
9 be the latest available figures from the United States Department
10 of Commerce, Bureau of the Census. Projects from more than one
11 county may pool their funds to operate a joint, multicounty legal
12 services project serving each of their respective counties.

13 (1) (A) In any county which is served by more than one
14 qualified legal services project, the State Bar shall distribute funds
15 for the county to those projects which apply on a pro rata basis,
16 based upon the amount of their total budget expended in the prior
17 year for legal services in that county as compared to the total
18 expended in the prior year for legal services by all qualified legal
19 services projects applying therefor in the county. In determining
20 the amount of funds to be allocated to a qualified legal services
21 project specified in paragraph (2) of subdivision (a) of Section
22 6213, the State Bar shall recognize only expenditures attributable
23 to the representation of indigent persons as constituting the budget
24 of the program.

25 (B) The State Bar shall reserve 10 percent of the funds allocated
26 to the county for distribution to programs meeting the standards
27 of subparagraph (A) of paragraph (3) and paragraphs (1) and (2)
28 of subdivision (b) of Section 6214 and which perform the services
29 described in subparagraph (A) of paragraph (3) of Section 6214
30 as their principal means of delivering legal services. The State Bar
31 shall distribute the funds for that county to those programs which
32 apply on a pro rata basis, based upon the amount of their total
33 budget expended for free legal services in that county as compared
34 to the total expended for free legal services by all programs meeting
35 the standards of subparagraph (A) of paragraph (3) and paragraphs
36 (1) and (2) of subdivision (b) of Section 6214 in that county. The
37 State Bar shall distribute any funds for which no program has
38 qualified pursuant hereto, in accordance with the provisions of
39 subparagraph (A) of paragraph (1) of this subdivision.

1 (2) In any county in which there is no qualified legal services
2 projects providing services, the State Bar shall reserve for the
3 remainder of the fiscal year for distribution the pro rata share of
4 funds as provided for by this article. Upon application of a qualified
5 legal services project proposing to provide legal services to the
6 indigent of the county, the State Bar shall distribute the funds to
7 the project. Any funds not so distributed shall be added to the funds
8 to be distributed the following year.

9 (e)

10 (b) Fifteen percent of the funds ~~remaining after payment of~~
11 ~~administrative costs~~ allocated for the purposes of this article shall
12 be distributed equally by the State Bar to qualified support centers
13 which apply for the funds. The funds provided to support centers
14 shall be used only for the provision of legal services within
15 California. Qualified support centers that receive funds to provide
16 services to qualified legal services projects from sources other than
17 this article, shall submit and shall have approved by the State Bar
18 a plan assuring that the services funded under this article are in
19 addition to those already funded for qualified legal services projects
20 by other sources.

21 *SEC. 8. Section 6218 of the Business and Professions Code is*
22 *amended to read:*

23 6218. All legal services projects and support centers receiving
24 funds pursuant to this article shall adopt financial eligibility
25 guidelines for indigent persons.

26 (a) Qualified legal services programs shall ensure that funds
27 appropriated pursuant to this article shall be used solely to defray
28 the costs of providing legal services to indigent persons or for such
29 other purposes as set forth in this article.

30 (b) Funds received pursuant to this article by support centers
31 shall only be used to provide services to qualified legal services
32 projects as defined in subdivision (a) of Section 6213 which are
33 used pursuant to a plan as required by subdivision ~~(e)~~(b) of Section
34 6216, or as permitted by Section 6219.