

AMENDED IN SENATE AUGUST 22, 2014

AMENDED IN SENATE JULY 1, 2014

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 ~~6031, 6021, 6033, 6073,~~ and 6140, 6140.03, 6216, and 6218 of, and to add Section ~~6140.04~~ 6144.1 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~~

This 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, within the period of 90 days next preceding the annual meeting, the board, at a meeting called for that purpose, to elect the president, vice president, and treasurer for the ensuing year. The president, the vice president, and the treasurer are to be elected from among all members of the board.

This bill, if the president is elected from among those members of the board whose terms on the board expire that year and has not been reelected or reappointed to another term, as provided, would require the president to serve as a 20th member of the board during his or her one-year term and would authorize him or her to vote.

~~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, and would provide that if the authorization for that administrative fee ceases to be in force and effect, the State Bar may deduct moneys received under other provisions of law to pay the reasonable administrative costs of performing its obligations. 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. \$40. The bill~~

would require that all funds received for these programs be distributed to qualified legal services projects and support centers without deduction for administrative fees, costs, or expenses by the State Bar, and would require that fees, costs, or expenses associated with administering these provisions be absorbed within the costs allowed by and paid from specified funds. The bill would also require that the net proceeds from the sale or lease of real property, after payment of obligations and encumbrances and reasonable costs of acquiring and relocating its facilities, if any, be held by the State Bar without expenditure or commitment for any purpose until approved by the Legislature by statute.

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~~
12 ~~organizations and pro bono, the advancement of equal access, and~~
13 ~~such matters as concern the relations of the bar with the public.~~
14 ~~(b) Notwithstanding this section or any other law, the board~~
15 ~~shall not conduct or participate in, or authorize any committee,~~
16 ~~agency, employee, or commission of the State Bar to conduct or~~
17 ~~participate in any evaluation, review, or report on the qualifications,~~
18 ~~integrity, diligence, or judicial ability of any specific justice of a~~
19 ~~court provided for in Section 2 or 3 of Article VI of the California~~
20 ~~Constitution without prior review and statutory authorization by~~
21 ~~the Legislature.~~
22 ~~This subdivision does not prohibit a member of the State Bar~~
23 ~~from conducting or participating in such an evaluation, review, or~~
24 ~~report in his or her individual capacity.~~

1 ~~This subdivision does not prohibit an evaluation of potential~~
2 ~~judicial appointees or nominees as authorized by Section 12011.5~~
3 ~~of the Government Code.~~

4 *SECTION 1. Section 6021 of the Business and Professions*
5 *Code is amended to read:*

6 6021. (a) (1) Within the period of 90 days next preceding the
7 annual meeting, the board, at a meeting called for that purpose,
8 shall elect the president, vice president, and treasurer for the
9 ensuing year. The president, the vice president, and the treasurer
10 shall be elected from among all members of the board.

11 (2) The newly elected president, vice president, and treasurer
12 shall assume the duties of their respective offices at the conclusion
13 of the annual meeting following their election.

14 (b) The term of the board president shall be one year, except
15 that he or she may be reelected to a second one-year term as the
16 board president.

17 (c) *Notwithstanding the provisions of Sections 6009.7 and 6011*
18 *regarding a 19-member board, if the president is elected from*
19 *among those members of the board whose terms on the board*
20 *expire that year and has not been reelected or reappointed to*
21 *another term under Section 6013.1, 6013.2, 6013.3, or 6013.5, the*
22 *president shall serve as a 20th member of the board during his or*
23 *her one-year term, and he or she may vote.*

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

26 6033. (a) Notwithstanding any other law, the State Bar is
27 expressly authorized to facilitate the professional responsibilities
28 of members by collecting, in conjunction with the State Bar's
29 collection of its annual membership dues or otherwise, voluntary
30 financial support for nonprofit organizations that provide free legal
31 services to persons of limited means. All funds received for
32 programs related to this section shall be ~~devoted to the support of~~
33 *distributed to* qualified legal services projects *and support centers*
34 *as provided in Section 6216* without deduction for administrative
35 fees, costs, or expenses by the State Bar. *Any fees, costs, or*
36 *expenses associated with administering this section shall be*
37 *absorbed within the costs allowed by and paid from the funds*
38 *specified in Section 6216.*

39 (b) To implement this section, the State Bar, in consultation
40 with the Chief Justice of California, shall appoint a task force of

1 key stakeholders to analyze the mechanisms and experience of bar
2 associations that have adopted programs for the collection of
3 financial contributions from bar members and shall propose an
4 appropriate method for facilitating the collection and distribution
5 of voluntary contributions that is best calculated to generate the
6 greatest level of financial support and participation from State Bar
7 members, taking into account such issues as the justice-gap
8 between the legal needs of low-income people in California and
9 the legal resources available to assist them. The method and any
10 recommended voluntary contribution amount adopted by the Board
11 of Trustees of the State Bar of California shall be implemented for
12 the 2008 fiscal year, and shall be reviewed and adjusted as needed
13 after two years and, thereafter, every five years as needed, in
14 consultation with affected service providers and other key
15 stakeholders.

16 ~~SEC. 3.— Section 6073 of the Business and Professions Code is~~
17 ~~amended to read:~~

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

1 ~~SEC. 4.~~

2 *SEC. 3.* Section 6140 of the Business and Professions Code is
3 amended to read:

4 6140. (a) The board shall fix the annual membership fee for
5 active members for 2015 at a sum not exceeding three hundred
6 fifteen dollars (\$315).

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

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

17 ~~SEC. 5.~~

18 *SEC. 4.* Section 6140.03 of the Business and Professions Code
19 is amended to read:

20 6140.03. (a) The board shall increase each of the annual
21 membership fees fixed by Sections 6140 and 6141 by an additional
22 ~~thirty-eight dollars (\$38);~~ *forty dollars (\$40)*, to be allocated only
23 for the purposes established pursuant to Section 6033, except to
24 the extent that a member elects not to support those activities.

25 (b) The invoice provided to members for payment of the annual
26 membership fee shall provide each member the option of deducting
27 ~~thirty-eight dollars (\$38)~~ *forty dollars (\$40)* from the annual
28 membership fee if the member elects not to have this amount
29 allocated for the purposes established pursuant to Section 6033.

30 ~~SEC. 6. Section 6140.04 is added to the Business and~~
31 ~~Professions Code, to read:~~

32 ~~6140.04. Seven dollars (\$7) shall be added to the annual~~
33 ~~membership fees fixed by Section 6140 to be allocated only for~~
34 ~~the purpose of paying the administrative costs of the programs of~~
35 ~~the State Bar.~~

36 ~~SEC. 7. Section 6216 of the Business and Professions Code is~~
37 ~~amended to read:~~

38 ~~6216. The State Bar shall distribute all moneys received under~~
39 ~~the program established by this article for the provision of civil~~
40 ~~legal services to indigent persons. The funds first shall be~~

1 distributed 18 months from the effective date of this article, or
2 upon such a date, as shall be determined by the State Bar, that
3 adequate funds are available to initiate the program. Thereafter,
4 the funds shall be distributed on an annual basis. All distributions
5 of funds shall be made in the following order and in the following
6 manner:

7 (a) If the authorization for fees pursuant to Section 6140.04 to
8 fund the administration of programs under this article ceases to be
9 in force and effect, the State Bar may deduct moneys received
10 under this article to pay the reasonable administrative costs of
11 performing its obligations under this article.

12 (b) Eighty-five percent of the funds allocated pursuant to this
13 article shall be distributed to qualified legal services projects.
14 Distribution shall be by a pro rata county-by-county formula based
15 upon the number of persons whose income is 125 percent or less
16 of the current poverty threshold per county. For the purposes of
17 this section, the source of data identifying the number of persons
18 per county shall be the latest available figures from the United
19 States Department of Commerce, Bureau of the Census. Projects
20 from more than one county may pool their funds to operate a joint,
21 multicounty legal services project serving each of their respective
22 counties.

23 (1) (A) In any county which is served by more than one
24 qualified legal services project, the State Bar shall distribute funds
25 for the county to those projects which apply on a pro rata basis,
26 based upon the amount of their total budget expended in the prior
27 year for legal services in that county as compared to the total
28 expended in the prior year for legal services by all qualified legal
29 services projects applying therefor in the county. In determining
30 the amount of funds to be allocated to a qualified legal services
31 project specified in paragraph (2) of subdivision (a) of Section
32 6213, the State Bar shall recognize only expenditures attributable
33 to the representation of indigent persons as constituting the budget
34 of the program.

35 (B) The State Bar shall reserve 10 percent of the funds allocated
36 to the county for distribution to programs meeting the standards
37 of subparagraph (A) of paragraph (3) and paragraphs (1) and (2)
38 of subdivision (b) of Section 6214 and which perform the services
39 described in subparagraph (A) of paragraph (3) of Section 6214
40 as their principal means of delivering legal services. The State Bar

1 shall distribute the funds for that county to those programs which
2 apply on a pro rata basis, based upon the amount of their total
3 budget expended for free legal services in that county as compared
4 to the total expended for free legal services by all programs meeting
5 the standards of subparagraph (A) of paragraph (3) and paragraphs
6 (1) and (2) of subdivision (b) of Section 6214 in that county. The
7 State Bar shall distribute any funds for which no program has
8 qualified pursuant hereto, in accordance with the provisions of
9 subparagraph (A) of paragraph (1) of this subdivision.

10 (2) In any county in which there is no qualified legal services
11 projects providing services, the State Bar shall reserve for the
12 remainder of the fiscal year for distribution the pro rata share of
13 funds as provided for by this article. Upon application of a qualified
14 legal services project proposing to provide legal services to the
15 indigent of the county, the State Bar shall distribute the funds to
16 the project. Any funds not so distributed shall be added to the funds
17 to be distributed the following year.

18 (e) Fifteen percent of the funds allocated for the purposes of
19 this article shall be distributed equally by the State Bar to qualified
20 support centers which apply for the funds. The funds provided to
21 support centers shall be used only for the provision of legal services
22 within California. Qualified support centers that receive funds to
23 provide services to qualified legal services projects from sources
24 other than this article, shall submit and shall have approved by the
25 State Bar a plan assuring that the services funded under this article
26 are in addition to those already funded for qualified legal services
27 projects by other sources.

28 SEC. 8. Section 6218 of the Business and Professions Code is
29 amended to read:

30 6218. All legal services projects and support centers receiving
31 funds pursuant to this article shall adopt financial eligibility
32 guidelines for indigent persons.

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

37 (b) Funds received pursuant to this article by support centers
38 shall only be used to provide services to qualified legal services
39 projects as defined in subdivision (a) of Section 6213 which are

1 ~~used pursuant to a plan as required by subdivision (c) of Section~~
2 ~~6216, or as permitted by Section 6219.~~

3 *SEC. 5. Section 6144.1 is added to the Business and Professions*
4 *Code, to read:*

5 *6144.1. The net proceeds from the sale or lease of real*
6 *property, after payment of obligations and encumbrances and*
7 *reasonable costs of acquiring and relocating its facilities, if any,*
8 *shall be held by the State Bar without expenditure or commitment*
9 *for any purpose until approved by the Legislature by statute.*