

AMENDED IN ASSEMBLY AUGUST 19, 2013

AMENDED IN ASSEMBLY JUNE 19, 2013

AMENDED IN ASSEMBLY JUNE 11, 2013

AMENDED IN SENATE APRIL 8, 2013

**SENATE BILL**

**No. 156**

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**Introduced by Senator Beall**  
(Coauthor: Assembly Member Fong)

January 31, 2013

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An act to amend Section 2640 of the Probate Code, relating to conservatorships and guardianships.

LEGISLATIVE COUNSEL'S DIGEST

SB 156, as amended, Beall. Conservatorships and guardianships: attorney's fees.

Existing law provides for the administration of guardianships and conservatorships. Existing law authorizes a guardian or conservator of an estate to petition the court for an order allowing compensation to the guardian, conservator, or attorney for the guardian or conservator, as specified. Existing law prohibits the guardian or conservator from being compensated from the estate for any costs or fees that he or she incurred in unsuccessfully opposing a petition, or other request or action, made by or on behalf of the ward or conservatee, unless the court determines that the opposition was made in good faith, based on the best interests of the ward or conservatee.

This bill would instead ~~authorize the court to award specified litigation costs incurred by the guardian or conservator in defending the compensation in the petition, including attorney's fees, only if the guardian or conservator first proves that he or she made a good faith~~

~~effort to informally resolve all objections, that he or she acted in good faith in defending the petition, and that it is in the best interest of the ward or conservatee to award the costs prohibit the guardian or conservator from being compensated from the estate for any costs or fees, including attorney's fees, incurred in defending the compensation in the petition, if the court reduces or denies the compensation requested in the petition.~~

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 2640 of the Probate Code is amended to  
2 read:  
3 2640. (a) At any time after the filing of the inventory and  
4 appraisal, but not before the expiration of 90 days from the issuance  
5 of letters or any other period of time as the court for good cause  
6 orders, the guardian or conservator of the estate may petition the  
7 court for an order fixing and allowing compensation to any one or  
8 more of the following:  
9 (1) The guardian or conservator of the estate for services  
10 rendered to that time.  
11 (2) The guardian or conservator of the person for services  
12 rendered to that time.  
13 (3) The attorney for services rendered to that time by the  
14 attorney to the guardian or conservator of the person or estate or  
15 both.  
16 (b) Notice of the hearing shall be given for the period and in  
17 the manner provided for in Chapter 3 (commencing with Section  
18 1460) of Part 1.  
19 (c) Upon the hearing, the court shall make an order allowing  
20 (1) any compensation requested in the petition the court determines  
21 is just and reasonable to the guardian or conservator of the estate  
22 for services rendered or to the guardian or conservator of the person  
23 for services rendered, or to both, and (2) any compensation  
24 requested in the petition the court determines is reasonable to the  
25 attorney for services rendered to the guardian or conservator of  
26 the person or estate or both. The compensation allowed to the  
27 guardian or conservator of the person, the guardian or conservator  
28 of the estate, and to the attorney may, in the discretion of the court,

1 include compensation for services rendered before the date of the  
2 order appointing the guardian or conservator. The compensation  
3 allowed shall be charged to the estate. Legal services for which  
4 the attorney may be compensated include those services rendered  
5 by any paralegal performing legal services under the direction and  
6 supervision of an attorney. The petition or application for  
7 compensation shall set forth the hours spent and services performed  
8 by the paralegal.

9 (d) Notwithstanding subdivision (c), if the court reduces or  
10 denies the compensation requested in the petition, the guardian or  
11 conservator shall not be compensated from the estate for any costs  
12 or fees, including attorney’s fees, that the guardian or conservator  
13 incurred in defending the compensation in the petition. ~~However,~~  
14 ~~the court may exercise discretion to grant or deny any portion of~~  
15 ~~the additional fee request if the guardian or conservator proves to~~  
16 ~~the satisfaction of the court all of the following:~~

17 ~~(1) The guardian or conservator made a reasonable and good~~  
18 ~~faith attempt at an informal resolution of each issue presented by~~  
19 ~~the objection to the compensation in the petition.~~

20 ~~(2) The guardian or conservator acted in good faith and with~~  
21 ~~substantial justification in defending the petition, taking into~~  
22 ~~consideration any objections thereto.~~

23 ~~(3) It is in the best interest of the ward or conservatee to make~~  
24 ~~an award of costs or fees.~~