

AMENDED IN ASSEMBLY APRIL 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2878

Introduced by Committee on Judiciary (Assembly Members Mark Stone (Chair), Alejo, Chau, Chiu, Cristina Garcia, and Holden)

February 25, 2016

An act to amend Section 6140 of, and to repeal Section 6008.5 of, the Business and Professions Code, relating to attorneys.

LEGISLATIVE COUNSEL'S DIGEST

AB 2878, as amended, Committee on Judiciary. Attorneys: annual membership fees.

The State Bar Act provides for the licensure and regulation of attorneys by the State Bar of California, a public corporation governed by a board of trustees. Existing law, until January 1, 2017, requires the board to charge an annual membership fee for active members of up to \$315 for 2016. *Existing law prohibits the Legislature, when the board of trustees places a charge upon or otherwise makes available all or any portion of the income or revenue from membership fees for the payment of security of an obligation of the State Bar and so long as any obligation remains unpaid, from reducing the maximum membership fee below the maximum in effect at the time the obligation is created or incurred and provides that this provision constitutes a covenant to the holder of such an obligation.*

This bill would, until January 1, 2018, require the board to charge an annual membership fee in the same amount for 2017. *The bill would repeal the above provision prohibiting the Legislature from reducing*

the maximum membership fee and would state various findings and declarations of the Legislature.

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. The Legislature finds and declares all of the*
2 *following:*

3 *(a) The protection of the public is required, by statute, to be the*
4 *highest priority of the State Bar of California and must be the*
5 *paramount focus of the State Bar, its employees, and, most*
6 *importantly, its board of trustees. All other duties and activities*
7 *of the State Bar are ancillary to its regulatory oversight of the*
8 *state's more than 250,000 attorneys, over 185,000 of whom are*
9 *active members.*

10 *(b) Throughout its history, the State Bar has been the subject*
11 *of substantial controversies, including allegations of serious fiscal*
12 *and management improprieties, and most recently failure to*
13 *properly protect the public against the unauthorized practice of*
14 *law, including allowing hundreds of complaints to languish in a*
15 *drawer.*

16 *(c) In May 2015, the California State Auditor released its*
17 *biannual performance audit of the State Bar, reviewing the State*
18 *Bar's backlog of discipline cases and its recent \$75,000,000*
19 *purchase and renovation of a building in Los Angeles at three*
20 *times the cost originally estimated and requiring a loan against*
21 *the Public Protection Fund, which is designed to be an emergency*
22 *fund to protect the public in the event of a financial emergency.*
23 *The audit uncovered significant, questionable decisions made by*
24 *the State Bar in the handling of both matters, including that the*
25 *State Bar had not fully or consistently reported its backlog of*
26 *discipline cases and that, in order to reduce its backlog of*
27 *discipline cases, the State Bar made questionable choices,*
28 *potentially causing "significant risk to the public."*

29 *(d) Most recently and without consultation with the Legislature,*
30 *the State Bar chose to replace the loan on the Los Angeles building,*
31 *along with a brand new loan for updating its San Francisco*
32 *building, with a securitization on future members dues, potentially*
33 *tying the hands of the Legislature in setting future dues amounts.*

1 (e) As a result of the troubling findings of the audit, the
2 Legislature, as part of the 2015 State Bar dues legislation, imposed
3 important new preliminary reforms on the State Bar. First, the
4 Legislature mandated that the State Bar be subject to both the
5 California Public Records Act and the Bagley-Keene Open
6 Meetings Act. These good government reforms help ensure the
7 integrity, transparency, and accountability of the State Bar. Second,
8 the Legislature directed the California State Auditor to conduct a
9 full financial audit of the State Bar, which is due on May 15, 2016.
10 Finally, the State Bar must develop a workforce plan for its
11 attorney discipline system and a spending plan to determine the
12 level for dues to recommend to the Legislature, which are both
13 due on May 15, 2016. These reports should help inform the
14 Legislature regarding the appropriate actions to take in its
15 oversight responsibility of the State Bar and its own determination
16 of the proper dues amount.

17 (f) In 2011, the Legislature directed the State Bar to establish
18 a Governance in the Public Interest Task Force to make
19 recommendations to the Governor, the Supreme Court, and the
20 Legislature every three years, beginning May 15, 2014, for, among
21 other things, enhancing the protection of the public and ensuring
22 that protection of the public is the highest priority in the licensing,
23 regulation, and discipline of attorneys, to be reviewed by the
24 Assembly and Senate Committees on Judiciary in their regular
25 consideration of the annual State Bar dues measure. That first
26 report is now two years overdue and, although the Governance in
27 the Public Interest Task Force finally began holding meetings this
28 year, it appears that this already long overdue report will not be
29 completed during this legislative session.

30 (g) It is the intent of the Legislature, in fulfilling its important
31 oversight responsibility over the State Bar and the proper amount
32 State Bar members must pay in annual dues, that this bill serve as
33 the vehicle to implement possible recommendations for
34 substantially improving the operations, effectiveness, and efficiency
35 of the State Bar based on the 2016 California State Auditor's audit
36 of the State Bar, along with the State Bar's discipline workforce
37 and spending plans and any draft Governance Task Force report
38 or other information, in order to ensure that the dues are the
39 appropriate amount, that the State Bar becomes more accountable

1 to the public, and that public protection is, and remains, the State
2 Bar's top priority.

3 SEC. 2. Section 6008.5 of the Business and Professions Code
4 is repealed.

5 ~~6008.5. Whenever the board has pledged, placed a charge upon,
6 or otherwise made available all or any portion of the income or
7 revenue from membership fees for the payment of security of an
8 obligation of the State Bar or any interest thereon, and so long as
9 any such obligation or any interest thereon remains unpaid, the
10 Legislature shall not reduce the maximum membership fee below
11 the maximum in effect at the time such obligation is created or
12 incurred, and the provisions of this section shall constitute a
13 covenant to the holder or holders of any such obligation.~~

14 SECTION 1.

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

17 6140. (a) The board shall fix the annual membership fee for
18 active members for 2017 at a sum not exceeding three hundred
19 fifteen dollars (\$315).

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

27 (c) This section shall remain in effect only until January 1, 2018,
28 and, as of that date, is repealed, unless a later enacted statute, that
29 is enacted before January 1, 2018, deletes or extends that date.