

AMENDED IN SENATE AUGUST 19, 2016

AMENDED IN ASSEMBLY JUNE 2, 2016

AMENDED IN ASSEMBLY MAY 27, 2016

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 Sections 6001, *6001.1*, 6011, *6013.1*, 6013.3, 6013.5, 6015, 6016, 6019, 6021, 6022, 6026.7, 6029, 6030, 6060.2, 6060.25, 6086.5, ~~and 6140~~ *6140*, ~~and 6145~~ of, ~~to amend, repeal, and add Section 6145 of~~, to add Sections ~~6001.3, 6134, 6134~~ and 6140.56 to, to add and repeal Section 6075.6 of, and to repeal Sections 6008.5, 6009.7, 6012, 6013.2, 6018, and 6026.5 of, the Business and Professions Code, relating to the State Bar.

LEGISLATIVE COUNSEL'S DIGEST

AB 2878, as amended, Committee on Judiciary. Attorneys: State Bar: board of trustees.

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. That act requires 6 members of the 19-member board to be attorneys elected from State Bar Districts. *That act requires protection of the public to be the highest priority for the State Bar and the board of trustees in exercising their licensing, regulatory, and*

disciplinary functions and requires protection of the public to be paramount whenever the protection of the public is inconsistent with any other interest sought to be promoted. That act provides that the State Bar is subject to the Bagley-Keene Open Meeting Act and the California Public Records Act, as specified. That act, until January 1, 2017, requires the board to charge an annual membership fee for active members of up to \$315 for 2016. The act requires the board of trustees to elect or select the president, vice president, and treasurer of the State Bar, as specified. 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. The act requires the board of trustees to contract with the California State Auditor's Office to conduct a performance audit of the State Bar's operations, as specified. That act establishes the State Bar Court to act in the place of the board of trustees in the determination of disciplinary proceedings, as specified. *That act requires the board to appoint a lawyer admitted to practice in California to serve as chief trial counsel, as specified.* That act authorizes the State Bar to raise additional revenue by any lawful means, including, but not limited to, the creation of foundations or not-for-profit corporations. That act requires the board to establish and administer a Client Security Fund to relieve or mitigate pecuniary losses caused by dishonest conduct of active members of the State Bar, as specified.

This bill would provide that the board of trustees consist of no more than 19 members and no fewer than 13 members and would require the board to transition to a 13-member board, as specified. The bill would remove from the board attorney members elected from State Bar Districts and would make conforming changes. The bill would ~~require~~ *provide that each member of appointing body, when making appointments to the board appointed after December 31, 2016, to should consider appointing members who have demonstrated educational or experience expertise, education or experience, or both, in one of 5 6* specified areas, including public finance. The bill would require that a ~~minimum of 7 maximum of 6~~ *minimum of 7 maximum of 6* members of the board be public members, as appointed by specified entities, and would ~~provide that no motion of the board can be approved unless a majority of the public members~~

~~approve the motion.~~ *require members of the board to serve a term of 4 years. The bill would require the Supreme Court to select from its appointed members a president and vice president of the State Bar the members of the board a chair and vice chair instead of the board of trustees electing a president and vice president. The bill would require members of the executive committee of the board to include at least one member of the board appointed by each appointing authority.*

This bill would provide that protection of the public requires that professional legal services are provided in a competent, accessible, and ethical manner, and that the judicial system functions in a fair, impartial, and just manner. The bill would define protection of the public, for purposes of staffing and resource allocations, as specified core functions of the State Bar, including, administration of the bar admissions and law school accreditation processes. The bill would provide that any decision of the board raising antitrust concerns is subject to review, modification, veto, or other appropriate action by the California Supreme Court.

The bill would require the Office of Chief Trial Counsel to open a nonattorney complaint against a person when the office becomes aware of an allegation that a person not licensed to practice law in California has practiced or held himself or herself out as practicing law or entitled to practice law in the state and would require the complaint to be evaluated and processed, as specified.

~~This bill would create the California State Bar Governance Commission and would provide that it consists of 9 members to be appointed as specified. The bill would require the commission to evaluate all issues of governance of the State Bar, including, but not limited to, a full review of other states with attorney regulatory structures that are different than the State Bar, in order to recommend the best governance structure for the State Bar and to ensure that protection of the public is the highest priority of the State Bar in its regulatory duties. The bill would require the commission to provide a report to the Governor, the Chief Justice of the California Supreme Court, and the Senate and Assembly Committees on Judiciary by April 30, 2017. The bill would repeal these provisions as of January 1, 2018.~~

~~This bill would require the Chief Justice of the California Supreme Court Attorney General to appoint a State Bar enforcement program monitor prior to March 31, 2017, and would require the program enforcement monitor to evaluate the disciplinary system and procedures of the State Bar, as specified. The bill would require the program~~

enforcement monitor to submit an initial report no later than October 1, 2019, and to issue a final report before March 31, 2020. The bill would make these provisions inoperative on March 31, 2020, and would repeal the provision as of January 1, 2021.

The bill would require the board of trustees to ~~contract with the California State Auditor's Office~~ *engage the services of an independent national or regional public accounting firm with at least 5 years of experience in governmental auditing* for an audit of its revenues, expenditures, reserves, and ~~its~~ financial statements for each fiscal year and would require the California State Auditor, for the performance audit due in January 2017, to review all of the State Bar's expenses, including, but not limited to, executive salaries. *The bill would also require California State Auditor to conduct a performance audit evaluating the State Bar's progress in certain areas, including correcting any issues raised in prior California State Auditor audits, and would require the California State Auditor to report its findings and recommendations, as specified.*

This bill would provide that access to records of the State Bar Court is subject to the rules and laws applicable to the judiciary instead of the California Public Records Act and would exempt the State Bar Court from the Bagley-Keene Open Meeting Act.

This bill, until January 1, 2018, would require the board to charge an annual membership fee in a specified amount for 2017. The bill would repeal the provision prohibiting the Legislature from reducing the maximum membership fee ~~and the provision authorizing the State Bar to raise additional revenue by any lawful means. The bill would specify that the State Bar is empowered to raise additional revenue by any lawful means~~ and would prohibit the State Bar from creating any foundation or nonprofit corporations, as specified. The bill would require the State Bar to conduct a thorough analysis of the Client Security Fund and to submit a report to the Legislature on its analysis of that fund by March 15, 2017, as specified. ~~The bill would state various findings and declarations of the Legislature.~~

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
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 of~~
7 ~~the State Bar are ancillary to its regulatory oversight of the state's~~
8 ~~more than 250,000 attorneys, over 185,000 of whom are active~~
9 ~~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 times~~
20 ~~the cost originally estimated and requiring a loan against the Public~~
21 ~~Protection Fund, which is designed to be an emergency fund to~~
22 ~~protect the public in the event of a financial emergency. The audit~~
23 ~~uncovered significant, questionable decisions made by the State~~
24 ~~Bar in the handling of both matters, including that the State Bar~~
25 ~~had not fully or consistently reported its backlog of discipline cases~~
26 ~~and that, in order to reduce its backlog of discipline cases, the State~~
27 ~~Bar made questionable choices, potentially causing "significant~~
28 ~~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.~~
34 ~~(e) As a result of the troubling findings of the audit, the~~
35 ~~Legislature, as part of the 2015 State Bar dues legislation, imposed~~

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

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

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

1 ~~SEC. 2.~~

2 *SECTION 1.* Section 6001 of the Business and Professions
3 Code is amended to read:

4 6001. The State Bar of California is a public corporation. It is
5 hereinafter designated as the State Bar.

6 The State Bar has perpetual succession and a seal and it may sue
7 and be sued. It may, for the purpose of carrying into effect and
8 promoting its objectives:

9 (a) Make contracts.

10 (b) Borrow money, contract debts, issue bonds, ~~notes~~ *notes*, and
11 debentures and secure the payment or performance of its
12 obligations.

13 (c) Own, hold, use, ~~manage~~ *manage*, and deal in and with real
14 and personal property.

15 (d) Construct, alter, ~~maintain~~ *maintain*, and repair buildings and
16 other improvements to real property.

17 (e) Purchase, lease, obtain options upon, acquire by gift, bequest,
18 ~~devise~~ *devise*, or otherwise, any real or personal property or any
19 interest therein.

20 (f) Sell, lease, exchange, convey, transfer, assign, encumber,
21 pledge, dispose of any of its real or personal property or any
22 interest therein, including without limitation all or any portion of
23 its income or revenues from membership fees paid or payable by
24 members.

25 (g) Do all other acts incidental to the foregoing or necessary or
26 expedient for the administration of its affairs and the attainment
27 of its purposes.

28 Pursuant to those powers enumerated in subdivisions (a) to (g),
29 inclusive, it is recognized that the State Bar has authority to raise
30 revenue in addition to that provided for in Section 6140 and other
31 statutory provisions. The State Bar is empowered to raise that
32 additional revenue by any lawful means. However, as of December
33 31, 2016, the State Bar shall not create any foundations or nonprofit
34 corporations.

35 The State Bar shall conspicuously publicize to its members in
36 the annual dues statement and other appropriate communications,
37 including its Web site and electronic communications, that its
38 members have the right to limit the sale or disclosure of member
39 information not reasonably related to regulatory purposes. In those
40 communications the State Bar shall note the location of the State

1 Bar's privacy policy, and shall also note the simple procedure by
2 which a member may exercise his or her right to prohibit or restrict,
3 at the member's option, the sale or disclosure of member
4 information not reasonably related to regulatory purposes. On or
5 before May 1, 2005, the State Bar shall report to the Assembly
6 and Senate Committees on Judiciary regarding the procedures that
7 it has in place to ensure that members can appropriately limit the
8 use of their member information not reasonably related to
9 regulatory purposes, and the number of members choosing to
10 utilize these procedures.

11 No law of this state restricting, or prescribing a mode of
12 procedure for the exercise of powers of state public bodies or state
13 agencies, or classes thereof, including, but not by way of limitation,
14 the provisions contained in Division 3 (commencing with Section
15 11000), Division 4 (commencing with Section 16100), and Part 1
16 (commencing with Section 18000) and Part 2 (commencing with
17 Section 18500) of Division 5, of Title 2 of the Government Code,
18 shall be applicable to the State Bar, unless the Legislature expressly
19 so declares. Notwithstanding the foregoing or any other law,
20 pursuant to Sections 6026.7 and 6026.11, the State Bar is subject
21 to the California Public Records Act (Chapter 3.5 (commencing
22 with Section 6250) of Division 7 of Title 1 of the Government
23 Code) and, commencing April 1, 2016, the Bagley-Keene Open
24 Meeting Act (Article 9 (commencing with Section 11120) of
25 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
26 Code).

27 ~~SEC. 3. Section 6001.3 is added to the Business and Professions~~
28 ~~Code, to read:~~

29 ~~6001.3. (a) There is hereby created, as of January 1, 2017, the~~
30 ~~California State Bar Governance Commission, consisting of nine~~
31 ~~members, who shall be appointed by February 1, 2017, and selected~~
32 ~~as follows:~~

- 33 ~~(1) Two members appointed by the Governor.~~
34 ~~(2) Three members appointed by the Chief Justice of the~~
35 ~~California Supreme Court.~~
36 ~~(3) Two members appointed by the Speaker of the Assembly.~~
37 ~~(4) Two members appointed by the Senate Committee on Rules.~~
38 ~~(b) The chairperson of the commission shall be elected by the~~
39 ~~members of the commission and shall preside at meetings of the~~
40 ~~commission.~~

1 ~~(e) Appointed members of the commission shall not receive a~~
2 ~~salary, but shall be entitled to a per diem allowance of fifty dollars~~
3 ~~(\$50) for each day's attendance at a meeting of the commission,~~
4 ~~not to exceed three hundred dollars (\$300) in any month, and~~
5 ~~reimbursement for expenses incurred in the performance of their~~
6 ~~duties under this chapter, including travel and other necessary~~
7 ~~expenses.~~

8 ~~(d) The commission may adopt bylaws for the regulation of its~~
9 ~~affairs and the conduct of its business.~~

10 ~~(e) The commission shall meet on the call of the chairperson,~~
11 ~~at the request of a majority of the members, or at the request of~~
12 ~~the California Chief Justice of the Supreme Court. A majority of~~
13 ~~all members of the commission constitutes a quorum for the~~
14 ~~transaction of business.~~

15 ~~(f) The State Bar shall furnish all administrative assistance~~
16 ~~required by the commission.~~

17 ~~(g) The commission shall evaluate all issues of governance of~~
18 ~~the State Bar, including, but not limited to, a full review of other~~
19 ~~states with attorney regulatory structures that are different than~~
20 ~~the State Bar and a possible separation of the State Bar's regulatory~~
21 ~~and trade association functions, in order to recommend the best~~
22 ~~governance structure for the State Bar to ensure that the protection~~
23 ~~of the public is the highest priority in the licensing, regulation, and~~
24 ~~discipline of attorneys and that the State Bar appropriately~~
25 ~~functions as a government agency subject to laws that apply to~~
26 ~~similar regulatory bodies. The commission shall, by April 30,~~
27 ~~2017, provide a report to the Governor, the Chief Justice of the~~
28 ~~California Supreme Court, and the Senate and Assembly~~
29 ~~Committees on Judiciary on its recommendations, along with an~~
30 ~~implementation plan for those recommendations. If the commission~~
31 ~~does not reach a consensus on all of the recommendations in its~~
32 ~~report, the dissenting members of the commission may prepare~~
33 ~~and submit a dissenting report to the same entities described in~~
34 ~~this subdivision.~~

35 *SEC. 2. Section 6001.1 of the Business and Professions Code*
36 *is amended to read:*

37 6001.1. (a) Protection of the public shall be the highest priority
38 for the State Bar of California and the board of trustees in
39 exercising their licensing, regulatory, and disciplinary functions.
40 Whenever the protection of the public is inconsistent with other

1 interests sought to be promoted, the protection of the public shall
 2 be paramount.

3 *(b) Protection of the public requires that professional legal*
 4 *services are provided in a competent, accessible, and ethical*
 5 *manner and that the judicial system functions in a fair, impartial,*
 6 *and just manner. For purposes of staffing and resource allocations,*
 7 *protection of the public is defined as the following core functions*
 8 *of the State Bar in the following order of priority:*

9 *(1) Administration of the bar admissions and law school*
 10 *accreditation processes, recordkeeping and licensing functions,*
 11 *and the lawyer discipline system.*

12 *(2) Administration of programs that advance professional*
 13 *competence and ethics, support the prevention of discipline*
 14 *problems before they occur, address the unlawful practice of law,*
 15 *and support the judicial selection process.*

16 *(3) Administration of programs that support the fair and equal*
 17 *administration of justice, effective functioning of the legal system,*
 18 *and diversity of the profession.*

19 ~~SEC. 4.~~

20 ~~SEC. 3.~~ Section 6008.5 of the Business and Professions Code
 21 is repealed.

22 ~~SEC. 5.~~

23 ~~SEC. 4.~~ Section 6009.7 of the Business and Professions Code
 24 is repealed.

25 ~~SEC. 6.~~

26 ~~SEC. 5.~~ Section 6011 of the Business and Professions Code is
 27 amended to read:

28 6011. (a) The board shall consist of no more than 19 members
 29 and no fewer than 13 members.

30 (b) It is the intent of the Legislature that the board consist of no
 31 more than 19 members and no fewer than 13 members during the
 32 period of transition from a 19-member board to a 13-member
 33 board. It is the intent of the Legislature that the board decrease its
 34 size without shortening, lengthening, or abolishing terms
 35 commencing prior to December 31, 2016, with the ultimate goal
 36 of instituting a 13-member board no later than October 31, 2019.
 37 It is the intent of the Legislature that this transition occur by the
 38 expiration of the terms of the elected members who are serving
 39 on the board as of December 31, 2016.

1 (c) Each member appointed after December 31, 2016, shall have
2 demonstrated educational or experience expertise. ~~When making~~
3 ~~appointments to the board on and after December 31, 2016, each~~
4 ~~appointing body should consider appointing members with~~
5 ~~education or experience, or both, in at least one of the following:~~

- 6 (1) Public finance.
- 7 (2) Public administration.
- 8 (3) Business or financial management.
- 9 (4) State government, particularly prior regulatory experience.
- 10 (5) Legal ethics.
- 11 (6) *Immigration law.*

12 ~~SEC. 7.~~

13 *SEC. 6.* Section 6012 of the Business and Professions Code is
14 repealed.

15 *SEC. 7.* Section 6013.1 of the Business and Professions Code
16 is amended to read:

17 6013.1. (a) The Supreme Court shall appoint five attorney
18 members of the board pursuant to a process that the Supreme Court
19 may prescribe. These attorney members shall serve for a term of
20 ~~three~~ four years and may be reappointed by the Supreme Court for
21 one additional term only.

22 (b) An attorney member elected pursuant to Section 6013.2 may
23 be appointed by the Supreme Court pursuant to this section to a
24 term as an appointed attorney member.

25 (c) The Supreme Court shall fill any vacancy in the term of, and
26 make any reappointment of, any appointed attorney member.

27 (d) When making appointments to the board, the Supreme Court
28 should consider appointing attorneys that represent the following
29 categories: legal services; small firm or solo practitioners;
30 historically underrepresented groups, including consideration of
31 race, ethnicity, gender, and sexual orientation; and legal academics.
32 In making appointments to the board, the Supreme Court should
33 also consider geographic distribution, years of practice, particularly
34 attorneys who are within the first five years of practice or 36 years
35 of age and under, and participation in voluntary local or state bar
36 activities.

37 (e) The State Bar shall be responsible for carrying out the
38 administrative responsibilities related to the appointment process
39 described in subdivision (a).

1 SEC. 8. Section 6013.2 of the Business and Professions Code
2 is repealed.

3 SEC. 9. Section 6013.3 of the Business and Professions Code
4 is amended to read:

5 6013.3. (a) One attorney member of the board shall be
6 appointed by the Senate Committee on ~~Rules~~. *Rules and one*
7 *attorney member of the board shall be appointed by the Speaker*
8 *of the Assembly.*

9 (b) An attorney member appointed pursuant to this section shall
10 serve for a term of ~~three~~ *four* years. *Vacancies shall be filled for*
11 *the remainder of the term.* An appointed attorney member may be
12 reappointed pursuant to this section.

13 SEC. 10. Section 6013.5 of the Business and Professions Code
14 is amended to read:

15 6013.5. (a) Effective January 1, 2017, a ~~minimum of seven~~
16 *maximum of six* members of the board shall be members of the
17 public who have never been members of the State Bar or admitted
18 to practice before any court in the United States.

19 (b) Each of these members shall serve for a term of ~~three years,~~
20 ~~commencing at the conclusion of the annual meeting next~~
21 ~~succeeding his or her appointment.~~ *four years. Vacancies shall be*
22 *filled for the remainder of the term.*

23 (c) Effective January 1, 2017, one public member shall be
24 appointed by the Senate Committee on Rules and ~~two~~ *one* public
25 ~~members~~ *member* shall be appointed by the Speaker of the
26 Assembly.

27 (d) Four public members shall be appointed by the Governor,
28 subject to the confirmation of the Senate.

29 (e) Each respective appointing authority shall fill any vacancy
30 in and make any reappointment to each respective office.

31 (f) ~~It is the intent of the Legislature that the increase of public~~
32 ~~members appointed by the Speaker of the Assembly, from one to~~
33 ~~two, as required by this measure adding this subdivision, occur at~~
34 ~~the expiration of the terms of the attorney members who are~~
35 ~~appointed by the Speaker of the Assembly and serving on the board~~
36 ~~as of December 31, 2016.~~

37 SEC. 11. Section 6015 of the Business and Professions Code
38 is amended to read:

39 6015. No person is eligible for attorney membership on the
40 board unless ~~all~~ *both* of the following conditions are satisfied:

1 (a) He or she is an active member of the State Bar.

2 (b) Either:

3 (1) Prior to October 31, 2019, if elected, he or she maintains
4 his or her principal office for the practice of law within the State
5 Bar district from which he or she is elected.

6 (2) If appointed by the Supreme Court or the Legislature, he or
7 she maintains his or her principal office for the practice of law
8 within the State of California.

9 ~~(c) If newly appointed after December 31, 2016, he or she~~
10 ~~satisfies the requirements of subdivision (c) of Section 6011.~~

11 SEC. 12. Section 6016 of the Business and Professions Code
12 is amended to read:

13 6016. The term of office of each attorney member of the board
14 shall ~~commence at the conclusion of the annual meeting next~~
15 ~~succeeding his or her election or appointment, be four years~~ and
16 he or she shall hold office until his or her successor is elected or
17 appointed and qualified. ~~For the purposes of this section, the time~~
18 ~~intervening between any two successive annual meetings shall be~~
19 ~~deemed to be one year. Vacancies shall be filled for the remainder~~
20 ~~of the term.~~

21 The board of trustees may provide by rule for an interim board
22 to act in the place and stead of the board when because of vacancies
23 during terms of office there is less than a quorum of the board.

24 SEC. 13. Section 6018 of the Business and Professions Code
25 is repealed.

26 SEC. 14. Section 6019 of the Business and Professions Code
27 is amended to read:

28 6019. Each place upon the board for which a member is to be
29 appointed shall for the purposes of the appointment be deemed a
30 separate office.

31 SEC. 15. Section 6021 of the Business and Professions Code
32 is amended to read:

33 6021. (a) (1) The Supreme Court shall select from ~~its~~
34 ~~appointed~~ *the members a president and a vice president of the*
35 *board a chair and a vice chair* to serve in the absence of the
36 ~~president.~~ *chair.*

37 ~~(2) Within the period of 90 days next preceding the annual~~
38 ~~meeting, the board, at a meeting called for that purpose, shall select~~
39 ~~the treasurer for the ensuing year.~~

40 (3)

1 ~~(2) The president, vice president, and treasurer~~ *chair and vice*
 2 *chair* shall assume the duties of their respective offices at the
 3 conclusion of the annual meeting following their ~~appointment or~~
 4 ~~selection.~~ *appointment.*

5 ~~(b) The term of the board president~~ *chair and vice chair* shall
 6 be one year, except that he or she may be reappointed to a second
 7 one-year term as the board president. *year.*

8 ~~(c) Notwithstanding the provisions of Section 6011 regarding~~
 9 ~~a 13-member board, if the president is elected from among those~~
 10 ~~members of the board whose terms on the board expire by that~~
 11 ~~year and has not been reappointed to another term under Section~~
 12 ~~6013.1 or 6013.5, the president shall serve as a 14th member of~~
 13 ~~the board during his or her one-year term, and he or she may vote.~~

14 SEC. 16. Section 6022 of the Business and Professions Code
 15 is amended to read:

16 6022. The ~~officers~~ *secretary and treasurer* of the State Bar
 17 shall be selected annually by the board and need not be a member
 18 *members* of the State Bar.

19 SEC. 17. Section 6026.5 of the Business and Professions Code,
 20 as added by Section 3 of Chapter 537 of the Statutes of 2015, is
 21 repealed.

22 SEC. 18. Section 6026.7 of the Business and Professions Code,
 23 as added by Section 5 of Chapter 537 of the Statutes of 2015, is
 24 amended to read:

25 6026.7. (a) The State Bar is subject to the Bagley-Keene Open
 26 Meeting Act (Article 9 (commencing with Section 11120) of
 27 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
 28 Code) and all meetings of the State Bar are subject to the
 29 Bagley-Keene Open Meeting Act.

30 (b) Notwithstanding any other law, the Bagley-Keene Open
 31 Meeting Act shall not apply to the Judicial Nominees Evaluation
 32 Commission, the Committee of Bar Examiners, or the State Bar
 33 Court.

34 (c) In addition to the grounds authorized in the Bagley-Keene
 35 Open Meeting Act, a closed session may be held for those
 36 meetings, or portions thereof, relating to both of the following:

37 (1) Appeals to the board from decisions of the Board of Legal
 38 Specialization refusing to certify or recertify an applicant or
 39 suspending or revoking a specialist's certificate.

1 (2) The preparation, approval, grading, or administration of
2 examinations for certification of a specialist.

3 *SEC. 19. Section 6029 of the Business and Professions Code*
4 *is amended to read:*

5 6029. (a) The board may appoint such committees, officers
6 and employees as it deems necessary or proper, and fix and pay
7 salaries and necessary expenses.

8 (b) *The members of the executive committee of the board shall*
9 *include at least one board member appointed by each of the*
10 *following appointing authorities:*

11 (1) *The Supreme Court.*

12 (2) *The Governor.*

13 (3) *The Speaker of the Assembly.*

14 (4) *The Senate Committee on Rules.*

15 ~~SEC. 19.~~

16 *SEC. 20. Section 6030 of the Business and Professions Code*
17 *is amended to read:*

18 6030. (a) The board shall be charged with the executive
19 function of the State Bar and the enforcement of the provisions of
20 this chapter.

21 (b) The violation or threatened violation of any provision of
22 Articles 7 (commencing with Section 6125) and 9 (commencing
23 with Section 6150) of this chapter may be enjoined in a civil action
24 brought in the superior court by the State Bar and no undertaking
25 shall be required of the State Bar.

26 ~~(c) No motion of the board can be approved unless a majority~~
27 ~~of the public members approve the motion.~~

28 (c) *Any decision of the board raising antitrust concerns is*
29 *subject to review, modification, veto, or other appropriate action*
30 *by the California Supreme Court.*

31 ~~SEC. 20.~~

32 *SEC. 21. Section 6060.2 of the Business and Professions Code*
33 *is amended to read:*

34 6060.2. (a) All investigations or proceedings conducted by
35 the State Bar concerning the moral character of an applicant shall
36 be confidential and shall not be disclosed pursuant to any state
37 law, including, but not limited to, the California Public Records
38 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
39 of Title 1 of the Government Code) unless the applicant, in writing,
40 waives the confidentiality.

1 (b) Notwithstanding subdivision (a), the records of the
 2 proceeding may be disclosed in response to either of the following:

- 3 (1) A lawfully issued subpoena.
- 4 (2) A written request from a government agency responsible
 5 for either the enforcement of civil or criminal laws or the
 6 professional licensing of individuals that is conducting an
 7 investigation about the applicant.

8 ~~SEC. 21.~~

9 *SEC. 22.* Section 6060.25 of the Business and Professions Code
 10 is amended to read:

11 6060.25. (a) Notwithstanding any other law, any identifying
 12 information submitted by an applicant to the State Bar for
 13 admission and a license to practice law and all State Bar admission
 14 records, including, but not limited to, bar examination scores, law
 15 school grade point average (GPA), undergraduate GPA, Law
 16 School Admission Test scores, race or ethnicity, and any
 17 information contained within the State Bar Admissions database
 18 or any file or other data created by the State Bar with information
 19 submitted by the applicant that may identify an individual
 20 applicant, other than information described in subdivision (b), shall
 21 be confidential and shall not be disclosed pursuant to any state
 22 law, including, but not limited to, the California Public Records
 23 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
 24 of Title 1 of the Government Code).

25 (b) (1) This section does not prohibit the disclosure of any of
 26 the following:

- 27 (1)
- 28 (A) The names of applicants who have passed any examination
 29 administered, given, or prescribed by the Committee of Bar
 30 Examiners.
- 31 (2)
- 32 (B) Information that is provided at the request of an applicant
 33 to another jurisdiction where the applicant is seeking admission
 34 to the practice of law.
- 35 (3)
- 36 (C) Information provided to a law school that is necessary for
 37 the purpose of the law school’s compliance with accreditation or
 38 regulatory requirements.
- 39 (4)

1 (D) Information provided to the National Conference of Bar
2 Examiners or a successor nonprofit organization in connection to
3 the State Bar’s administration of any examination.

4 (2) *This subdivision shall apply retroactively to January 1, 2016.*

5 (c) Disclosure of any of the information in ~~paragraphs (2)~~
6 ~~subparagraphs (B) to (4), (D),~~ inclusive, of *paragraph (1) of*
7 subdivision (b) shall not constitute a waiver under Section 6254.5
8 of the Government Code of the exemption from disclosure provided
9 for in subdivision (a) of this section.

10 ~~SEC. 22.~~

11 *SEC. 23.* Section 6075.6 is added to the Business and
12 Professions Code, to read:

13 ~~6075.6. (a) (1) The Chief Justice of the California Supreme~~
14 ~~Court~~ *Attorney General* shall appoint a State Bar enforcement
15 program monitor prior to March 31, 2017. ~~The Chief Justice of~~
16 ~~the California Supreme Court shall advertise the availability of~~
17 ~~the position and conduct interviews of candidates for the position.~~
18 The applicant for the position shall have investigative experience,
19 shall be familiar with California laws and procedures, and,
20 preferably, shall be familiar with the rules and procedures of the
21 State Bar lawyer discipline system and relevant administrative
22 procedures. The monitor may be a state employee or his or her
23 services may be provided pursuant to contract.

24 (2) ~~The Chief Justice of the California Supreme Court~~ *Attorney*
25 *General* shall supervise the monitor and may terminate or dismiss
26 him or her from this position.

27 (b) (1) The enforcement program monitor shall monitor and
28 evaluate the disciplinary system and procedures of the State Bar.
29 The enforcement program monitor shall make his or her highest
30 priority the reform and reengineering of the State Bar’s
31 enforcement program and operations and the improvement of the
32 overall efficiency of the State Bar’s disciplinary system so that the
33 State Bar is successfully and consistently protecting the public.

34 (2) This monitoring duty shall include, but not be limited to,
35 the prioritization of cases most impacting public protection,
36 improving the timeframe for the handling of complaints and in the
37 rendering of initial decisions on complaints, the efficiency of the
38 system, the fairness and courtesy given to complainants, the
39 adequacy of the staffing and the budget allocated to the discipline
40 section of the State Bar, the reduction of the complaint backlog,

1 the consistency in the application of sanctions or discipline
2 imposed, the implementation of laws affecting discipline and the
3 State Bar's operations, disciplinary standards and rules, staff
4 concerns regarding disciplinary matters or procedures, and the
5 State Bar's cooperation with other governmental entities charged
6 with enforcing related laws and regulations that affect members
7 of the State Bar.

8 (3) The monitor shall exercise no authority over the State Bar's
9 discipline operations or staff, however, the State Bar and its staff
10 shall cooperate with the program enforcement monitor, and the
11 Bar shall provide data, information, and case files as requested by
12 the enforcement program monitor to perform all of his or her duties.
13 ~~The enforcement program monitor shall have the same access to~~
14 ~~documents as the Chief Justice of the California Supreme Court.~~

15 (c) The enforcement program monitor shall submit an initial
16 written report of his or her findings and conclusions to the State
17 Bar, the Supreme Court, and the Legislature no later than October
18 1, 2019, and be available to make oral reports to each if requested
19 to do so. The initial report shall include an analysis of the sources
20 of information that resulted in each disciplinary action imposed
21 since January 1, 2016. The monitor may also provide additional
22 information to either the Supreme Court, the State Bar, or the
23 Legislature at his or her discretion or at the request of the Supreme
24 Court, the State Bar, or the Legislature. The program enforcement
25 monitor shall make his or her reports available to the public or the
26 media. The monitor shall make every effort to provide the State
27 Bar with an opportunity to reply to any facts, findings, issues, or
28 conclusions in his or her reports with which the State Bar may
29 disagree.

30 (d) The enforcement program monitor shall issue a final report
31 prior to March 31, 2020.

32 (e) This section shall become inoperative on March 31, 2020,
33 and as of January 1, ~~2020~~, 2021, shall be repealed.

34 ~~SEC. 23.~~

35 *SEC. 24.* Section 6086.5 of the Business and Professions Code
36 is amended to read:

37 6086.5. The board of trustees shall establish a State Bar Court,
38 to act in its place and stead in the determination of disciplinary
39 and reinstatement proceedings and proceedings pursuant to
40 subdivisions (b) and (c) of Section 6007 to the extent provided by

1 rules adopted by the board of trustees pursuant to this chapter. In
2 these proceedings the State Bar Court may exercise the powers
3 and authority vested in the board of trustees by this chapter,
4 including those powers and that authority vested in committees
5 of, or established by, the board, except as limited by rules of the
6 board of trustees within the scope of this chapter.

7 Access to records of the State Bar Court shall be governed by
8 court rules and laws applicable to records of the judiciary and not
9 the California Public Records Act (Chapter 3.5 (commencing with
10 Section 6250) of Division 7 of Title 1 of the Government Code).

11 For the purposes of Sections 6007, 6043, 6049, 6049.2, 6050,
12 6051, 6052, 6077 (excluding the first sentence), 6078, 6080, 6081,
13 and 6082, “board” includes the State Bar Court.

14 Nothing in this section shall authorize the State Bar Court to
15 adopt rules of professional conduct or rules of procedure.

16 The Executive Committee of the State Bar Court may adopt
17 rules of practice for the conduct of all proceedings within its
18 jurisdiction. These rules may not conflict with the rules of
19 procedure adopted by the board, unless approved by the Supreme
20 Court.

21 ~~SEC. 24.~~

22 *SEC. 25.* Section 6134 is added to the Business and Professions
23 Code, to read:

24 6134. (a) When the Office of the Chief Trial Counsel becomes
25 aware of an allegation that a person not licensed to practice law
26 in California has practiced or held himself or herself out as
27 practicing law or entitled to practice law in the state, the office’s
28 intake unit shall open a nonattorney complaint against that person
29 for evaluation and processing.

30 (b) The intake unit shall open a case record in the office’s case
31 management system with the complaint form received date. The
32 complaint form received date shall be the date the State Bar first
33 received the complaint. Evaluation and processing of the
34 nonattorney complaint shall include, but not be limited to, all of
35 the following:

36 (1) Creation of a summary of the allegation or allegations in the
37 case record and assignment to staff, including inputting staff
38 assignment codes into the case management system.

39 (2) Identifying the source of the complaint.

1 (3) Identifying the relevant practice area of law, such as
2 immigration, loan modification, or debt resolution, and recording
3 the relevant practice area of law in the case record.

4 (4) Identifying whether the allegations include potential identity
5 theft of a licensed attorney's identity and, if so, contacting the
6 potential victim attorney to verify whether the attorney is aware
7 of the potential identify theft and whether he or she has notified
8 law enforcement.

9 (5) Evaluating the nonattorney complaint for unauthorized
10 practice of law allegations, which includes opening a corresponding
11 attorney complaint case record, if appropriate, such as in the case
12 in which the nonattorney complaint also identifies a licensed
13 California attorney potentially aiding or abetting the person in the
14 unauthorized practice of law.

15 (6) Seeking additional information from the complainant or
16 other sources, such as the Internet, when the nonattorney complaint
17 does not provide specific or sufficient facts to establish that the
18 unauthorized practice of law may have occurred.

19 (7) Determining whether to forward the complaint to the
20 enforcement unit for investigation.

21 (c) If the nonattorney complaint sufficiently alleges an
22 unauthorized practice of law violation, the intake unit shall do both
23 of the following:

24 (1) Forward the nonattorney complaint to the enforcement unit
25 for further action.

26 (2) Refer the matter to law enforcement or other appropriate
27 agency for consideration of criminal or other enforcement action,
28 as specified in subdivisions (f) and (g).

29 (d) If the nonattorney complaint sufficiently alleges the use of
30 "notario," "notario publico," or other words or phrases in violation
31 of Section 6126.7 or there is other evidence of a violation of
32 Section 6126.7, the intake unit shall forward the complaint to the
33 enforcement unit for further action.

34 (e) If the nonattorney complaint does not sufficiently allege an
35 unauthorized practice of law violation or a violation of Section
36 6126.7, the intake unit shall do all of the following:

37 (1) Notify the complainant in writing of the determination.

38 (2) Advise the complainant in writing of the opportunity to seek
39 reconsideration of the determination.

1 (3) Process the case for closure, including updating the case
2 record.

3 (f) The intake unit’s staff shall resolve nonattorney complaints
4 by either:

5 (1) Forwarding the nonattorney complaint to the office’s
6 enforcement unit.

7 (2) Closing the nonattorney complaint in the intake unit.

8 (g) (1) A nonattorney complaint alleging the unauthorized
9 practice of law shall be presumed to warrant a law enforcement
10 referral to federal, state, or local authorities, such as the United
11 States Attorney, the Attorney General, the local district attorney,
12 local county counsel, or local city attorney, for criminal or other
13 enforcement action.

14 (2) After the intake unit forwards a nonattorney complaint, the
15 office’s enforcement unit shall make the referral required under
16 paragraph (1), where appropriate, and shall coordinate with law
17 enforcement, as appropriate, throughout the office’s investigation
18 of the nonattorney complaint.

19 (3) The intake unit may, where warranted, refer nonattorney
20 complaints that do not allege the unauthorized practice of law to
21 another regulatory agency, such as the Bureau of Real Estate, the
22 Department of Consumer Affairs, the United States Securities and
23 Exchange Commission, the Federal Trade Commission, and the
24 United States Patent and Trademark Office.

25 (h) Staff of the intake unit shall evaluate nonattorney complaints
26 and strive to meet all of the following in at least 90 percent of
27 nonattorney complaints filed:

28 (1) Open a nonattorney complaint case record within five days
29 from the complaint form received date, as defined in subdivision
30 (b).

31 (2) Complete the initial legal review of the nonattorney
32 complaint within 20 days from the complaint form received date.

33 (3) Process the nonattorney complaint to resolution, which
34 means closing the case or forwarding the case for investigation,
35 within 60 days from the complaint form received date.

36 (i) Staff of the intake unit shall maintain processing activities
37 in the nonattorney complaint case record, including the recording
38 and tracking of other regulatory agency referrals made in
39 connection with a nonattorney complaint.

1 (j) All nonattorney complaints forwarded by the intake unit to
2 the office's enforcement unit shall be investigated to determine
3 whether there is evidence of the unauthorized practice of law or
4 any violation of Section 6126.7. There shall be an appropriate law
5 enforcement referral upon assignment to a staff member of the
6 enforcement unit. Assigned enforcement unit staff shall update
7 any law enforcement agency to which the complaint was referred
8 with the status and findings of the investigation as it proceeds.
9 Upon completion of an investigation, the assigned staff of the
10 enforcement unit shall analyze the evidence to determine whether
11 the evidence is sufficient to support formal proceedings in superior
12 court.

13 (k) Enforcement unit staff shall complete nonattorney complaint
14 investigations to resolution by one of the following:

15 (1) Filing enforcement proceedings in superior court.

16 (2) Issuing a cease and desist letter. Enforcement unit staff may
17 issue a cease and desist letter where the unauthorized practice of
18 law activity appears isolated in nature and unlikely to recur or
19 where it otherwise appears that a cease and desist warning will
20 sufficiently address and stop the activity at issue.

21 (3) Closing the complaint with no further action.

22 (l) Enforcement unit staff shall investigate nonattorney
23 complaints adhering to the same backlog time standard applicable
24 to attorney discipline complaints and shall resolve the complaint
25 within six months from the complaint form received date.

26 (m) Intake unit staff and enforcement unit staff shall, as
27 appropriate, maintain and update processing activities in the
28 nonattorney case record, as follows:

29 (1) Record and track the number of superior court proceedings
30 initiated pursuant to Section 6126.3.

31 (2) Record and track the number of superior court proceedings
32 initiated pursuant to Section 6126.4.

33 (3) Record and track the number of superior court proceedings
34 initiated pursuant to Section 6126.7.

35 (4) Record and track the number of superior court proceedings
36 initiated pursuant to Section 6127.

37 (5) Record and track the number of law enforcement referrals
38 made in connection with nonattorney complaints.

39 (6) Record and track the number of other agency referrals made
40 in connection with nonattorney complaints.

1 (7) Record and track the number of cease and desist letters
2 issued in connection with nonattorney complaints.

3 (n) *The Office of Chief Trial Counsel shall hire at least one*
4 *supervising attorney with the following experience:*

5 (1) *At least three years of experience handling asylum, T-Visa,*
6 *U-Visa, or special immigrant juvenile status cases and has*
7 *represented at least 25 individuals in these matters.*

8 (2) *Experience in representing individuals in removal*
9 *proceedings and asylum applications.*

10 ~~SEC. 25.~~

11 *SEC. 26.* Section 6140 of the Business and Professions Code
12 is amended to read:

13 6140. (a) The board shall fix the annual membership fee for
14 active members for 2017 at a sum not exceeding three hundred
15 fifteen dollars (\$315).

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

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

26 ~~SEC. 26.~~

27 *SEC. 27.* Section 6140.56 is added to the Business and
28 Professions Code, to read:

29 6140.56. (a) To ensure that the Client Security Fund can
30 adequately protect the public and relieve or mitigate financial
31 losses caused by the dishonest conduct of members of the State
32 Bar by paying claims in a timely manner, the State Bar shall
33 conduct a thorough analysis of the Client Security Fund, including
34 *a review of the governance structure of the Client Security Fund*
35 *to ensure that the structure provides for the most effective and*
36 *efficient operation of the fund,* a determination of the ongoing
37 needs of the fund to satisfy claims in a timely manner, a review
38 of additional efforts that can be taken to increase the collection of
39 payments from the responsible attorneys, and a review of other
40 State Bar expenditures to determine whether other expenditures

1 that do not directly impact the State Bar’s public protection
 2 functions, including, but not limited to, executive salaries and
 3 benefits, can be reduced or redirected in order to better fund the
 4 Client Security Fund through existing revenue, and, whether, after
 5 all other options have been fully and thoroughly exhausted, an
 6 increase in membership dues is necessary to ensure that the Client
 7 Security Fund can timely pay claims.

8 (b) The State Bar shall submit a report on its analysis of the
 9 Client Security Fund to the Legislature by March 15, 2017, so that
 10 the plans can be reviewed in conjunction with the bill that would
 11 authorize the imposition of the State Bar’s membership fee. The
 12 report shall be submitted in compliance with Section 9795 of the
 13 Government Code.

14 (c) For purposes of this section, “timely manner” means within
 15 12 months from the *later of the* time the claim is received by the
 16 State Bar. ~~Bar and upon the resolution of the underlying discipline~~
 17 ~~case involving an attorney member, which is a prerequisite to~~
 18 ~~paying the claim.~~

19 ~~SEC. 27.~~

20 SEC. 28. Section 6145 of the Business and Professions Code
 21 is amended to read:

22 6145. (a) The board shall ~~contract with the California State~~
 23 ~~Auditor’s Office~~ *engage the services of an independent national*
 24 *or regional public accounting firm with at least five years of*
 25 *experience in governmental auditing* for an audit of its revenues,
 26 expenditures, reserves, and its financial statement for each fiscal
 27 year. The financial statement shall be promptly certified under
 28 oath by the Treasurer of the State Bar, and a copy of the audit and
 29 financial statement shall be submitted within 120 days of the close
 30 of the fiscal year to the board, to the Chief Justice of ~~the Supreme~~
 31 ~~Court, California,~~ and to the Assembly and Senate Committees
 32 on Judiciary.

33 The audit shall examine the receipts and expenditures of the
 34 State Bar and the State Bar sections to ensure that the receipts of
 35 the sections are being applied, and their expenditures are being
 36 made, in compliance with subdivision (a) of Section 6031.5, and
 37 that the receipts of the sections are applied only to the work of the
 38 sections.

39 The audit also shall examine the receipts and expenditures of
 40 the State Bar to ensure that the funds collected on behalf of the

1 Conference of Delegates of California Bar Associations as the
2 independent successor entity to the former Conference of Delegates
3 of the State Bar are conveyed to that entity, that the State Bar has
4 been paid or reimbursed for the full cost of any administrative and
5 support services provided to the successor entity, including the
6 collection of fees or donations on its behalf, and that no mandatory
7 dues are being used to fund the activities of the successor entity.

8 ~~This subdivision is not intended to reduce the number of audits~~
9 ~~the California State Auditor's Office may otherwise be able to~~
10 ~~conduct.~~

11 *In selecting the accounting firm, the board shall consider the*
12 *value of continuity, along with the risk that continued long-term*
13 *engagements of an accounting firm may affect the independence*
14 *of that firm.*

15 (b) The board shall contract with the California State Auditor's
16 Office to conduct a performance audit of the State Bar's operations
17 from July 1, 2000, to December 31, 2000, inclusive. A copy of the
18 performance audit shall be submitted by May 1, 2001, to the board,
19 to the Chief Justice of ~~the Supreme Court, California~~, and to the
20 Assembly and Senate Committees on Judiciary.

21 Every two years thereafter, the board shall contract with the
22 California State Auditor's Office to conduct a performance audit
23 of the State Bar's operations for the respective fiscal year,
24 commencing with January 1, 2002, to December 31, 2002,
25 inclusive. A copy of the performance audit shall be submitted
26 within 120 days of the close of the fiscal year for which the audit
27 was performed to the board, to the Chief Justice of ~~the Supreme~~
28 ~~Court, California~~, and to the Assembly and Senate Committees
29 on Judiciary.

30 For the performance audit due to the board, to the Chief Justice
31 of the California Supreme Court, and to the Assembly and Senate
32 Committees on Judiciary in 2017, the California State Auditor
33 shall review all of the State Bar's expenses, including, but not
34 limited to, executive salaries and benefits, outside contracts, and
35 real estate holdings, to determine the expenses that are appropriate
36 and necessary to protect the public and what the appropriate level
37 of member dues should be.

38 For the purposes of this subdivision, the California State
39 Auditor's Office may contract with a third party to conduct the
40 performance audit. This subdivision is not intended to reduce the

1 number of audits the California State Auditor’s Office may
 2 otherwise be able to conduct.

3 ~~(e) This section shall become inoperative on January 1, 2021,~~
 4 ~~and as of that date is repealed.~~

5 *(c) (1) In addition to the audits required in subdivision (b), the*
 6 *California State Auditor shall conduct a performance audit*
 7 *evaluating the State Bar’s progress in:*

8 *(A) Reviewing any changes in the State Bar’s expenses made*
 9 *as a result of prior audits by the California State Auditor.*

10 *(B) Correcting any issues raised in prior audits by the California*
 11 *State Auditor.*

12 *(C) Increasing operational effectiveness and efficiency.*

13 *(2) The California State Auditor shall report its findings and*
 14 *recommendations to the board, to the Chief Justice of California,*
 15 *to the Assembly Committee on Judiciary, and to the Senate*
 16 *Committee on Judiciary, no later than June 15, 2018.*

17 ~~SEC. 28. Section 6145 is added to the Business and Professions~~
 18 ~~Code, to read:~~

19 ~~6145. (a) The board shall engage the services of an independent~~
 20 ~~national or regional public accounting firm with at least five years~~
 21 ~~of experience in governmental auditing for an audit of its financial~~
 22 ~~statement for each fiscal year. The financial statement shall be~~
 23 ~~promptly certified under oath by the Treasurer of the State Bar,~~
 24 ~~and a copy of the audit and financial statement shall be submitted~~
 25 ~~within 120 days of the close of the fiscal year to the board, to the~~
 26 ~~Chief Justice of the California Supreme Court, and to the Assembly~~
 27 ~~and Senate Committees on Judiciary.~~

28 ~~The audit shall examine the receipts and expenditures of the~~
 29 ~~State Bar and the State Bar sections to ensure that the receipts of~~
 30 ~~the sections are being applied, and their expenditures are being~~
 31 ~~made, in compliance with subdivision (a) of Section 6031.5, and~~
 32 ~~that the receipts of the sections are applied only to the work of the~~
 33 ~~sections.~~

34 ~~The audit also shall examine the receipts and expenditures of~~
 35 ~~the State Bar to ensure that the funds collected on behalf of the~~
 36 ~~Conference of Delegates of California Bar Associations as the~~
 37 ~~independent successor entity to the former Conference of Delegates~~
 38 ~~of the State Bar are conveyed to that entity, that the State Bar has~~
 39 ~~been paid or reimbursed for the full cost of any administrative and~~
 40 ~~support services provided to the successor entity, including the~~

1 collection of fees or donations on its behalf, and that no mandatory
2 dues are being used to fund the activities of the successor entity.

3 ~~In selecting the accounting firm, the board shall consider the~~
4 ~~value of continuity, along with the risk that continued long-term~~
5 ~~engagements of an accounting firm may affect the independence~~
6 ~~of that firm.~~

7 ~~(b) The board shall contract with the California State Auditor's~~
8 ~~Office to conduct a performance audit of the State Bar's operations~~
9 ~~from July 1, 2000, to December 31, 2000, inclusive. A copy of the~~
10 ~~performance audit shall be submitted by May 1, 2001, to the board,~~
11 ~~to the Chief Justice of the California Supreme Court, and to the~~
12 ~~Assembly and Senate Committees on Judiciary.~~

13 ~~Every two years thereafter, the board shall contract with the~~
14 ~~California State Auditor's Office to conduct a performance audit~~
15 ~~of the State Bar's operations for the respective fiscal year,~~
16 ~~commencing with January 1, 2002, to December 31, 2002,~~
17 ~~inclusive. A copy of the performance audit shall be submitted~~
18 ~~within 120 days of the close of the fiscal year for which the audit~~
19 ~~was performed to the board, to the Chief Justice of the Supreme~~
20 ~~Court, and to the Assembly and Senate Committees on Judiciary.~~

21 ~~For the purposes of this subdivision, the California State~~
22 ~~Auditor's Office may contract with a third party to conduct the~~
23 ~~performance audit. This subdivision is not intended to reduce the~~
24 ~~number of audits the California State Auditor's Office may~~
25 ~~otherwise be able to conduct.~~

26 ~~SEC. 29:~~

27 ~~SEC. 29.~~ The Legislature finds and declares that Sections ~~17~~
28 ~~18 and 20 24~~ of this act, which amend Sections 6026.7 and 6086.5
29 of the Business and Professions Code, impose a limitation on the
30 public's right of access to the meetings of public bodies or the
31 writings of public officials and agencies within the meaning of
32 Section 3 of Article I of the California Constitution. Pursuant to
33 that constitutional provision, the Legislature makes the following
34 findings to demonstrate the interest protected by this limitation
35 and the need for protecting that interest:

36 In order to protect the decisionmaking process of the State Bar
37 Court in a manner that is similar to the deliberative functions of
38 other courts and in order to ensure that personal or sensitive
39 information regarding discipline by the State Bar Court is kept
40 confidential, including for persons participating in discussions and

- 1 offers of settlement pursuant to arbitration or mediation, it is
- 2 necessary to exempt the State Bar Court from the provision of the
- 3 Bagley-Keene Open Meeting Act and the California Public Records
- 4 Act.

O