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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~~, 6008.6, 6011, 6013.1, 6013.3, 6013.5, 6015, 6016, 6019, 6021, 6022, 6026.7, 6029, 6030, 6060.2, 6060.25, 6086.5, 6140, and 6145 of, to add Sections 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 provide that each appointing body, when making appointments to the board after December 31, 2016, should consider appointing members who have education or experience, or both, in one of 6 specified areas, including public finance. The bill would require that a maximum of 6 members of the board be public members, as appointed by specified entities, and would require members of the board to serve a term of 4 years. The bill would require the *California* Supreme Court to select

from 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 require the 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 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 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 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.

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: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6001 of the Business and Professions
- 2 Code is amended to read:
- 3 6001. The State Bar of California is a public corporation. It is
- 4 hereinafter designated as the State Bar.
- 5 The State Bar has perpetual succession and a seal and it may sue
- 6 and be sued. It may, for the purpose of carrying into effect and
- 7 promoting its objectives:
- 8 (a) Make contracts.
- 9 (b) Borrow money, contract debts, issue bonds, notes, and
- 10 debentures and secure the payment or performance of its
- 11 obligations.
- 12 (c) Own, hold, use, manage, and deal in and with real and
- 13 personal property.
- 14 (d) Construct, alter, maintain, and repair buildings and other
- 15 improvements to real property.

1 (e) Purchase, lease, obtain options upon, acquire by gift, bequest,
2 devise, or otherwise, any real or personal property or any interest
3 therein.

4 (f) Sell, lease, exchange, convey, transfer, assign, encumber,
5 pledge, dispose of any of its real or personal property or any
6 interest therein, including without limitation all or any portion of
7 its income or revenues from membership fees paid or payable by
8 members.

9 (g) Do all other acts incidental to the foregoing or necessary or
10 expedient for the administration of its affairs and the attainment
11 of its purposes.

12 Pursuant to those powers enumerated in subdivisions (a) to (g),
13 inclusive, it is recognized that the State Bar has authority to raise
14 revenue in addition to that provided for in Section 6140 and other
15 statutory provisions. The State Bar is empowered to raise that
16 additional revenue by any lawful means. However, as of December
17 31, 2016, the State Bar shall not create any foundations or nonprofit
18 corporations.

19 The State Bar shall conspicuously publicize to its members in
20 the annual dues statement and other appropriate communications,
21 including its Web site and electronic communications, that its
22 members have the right to limit the sale or disclosure of member
23 information not reasonably related to regulatory purposes. In those
24 communications the State Bar shall note the location of the State
25 Bar's privacy policy, and shall also note the simple procedure by
26 which a member may exercise his or her right to prohibit or restrict,
27 at the member's option, the sale or disclosure of member
28 information not reasonably related to regulatory purposes. On or
29 before May 1, 2005, the State Bar shall report to the Assembly
30 and Senate Committees on Judiciary regarding the procedures that
31 it has in place to ensure that members can appropriately limit the
32 use of their member information not reasonably related to
33 regulatory purposes, and the number of members choosing to
34 utilize these procedures.

35 No law of this state restricting, or prescribing a mode of
36 procedure for the exercise of powers of state public bodies or state
37 agencies, or classes thereof, including, but not by way of limitation,
38 the provisions contained in Division 3 (commencing with Section
39 11000), Division 4 (commencing with Section 16100), and Part 1
40 (commencing with Section 18000) and Part 2 (commencing with

1 Section 18500) of Division 5, of Title 2 of the Government Code,
2 shall be applicable to the State Bar, unless the Legislature expressly
3 so declares. Notwithstanding the foregoing or any other law,
4 pursuant to Sections 6026.7 and 6026.11, the State Bar is subject
5 to the California Public Records Act (Chapter 3.5 (commencing
6 with Section 6250) of Division 7 of Title 1 of the Government
7 Code) and, commencing April 1, 2016, the Bagley-Keene Open
8 Meeting Act (Article 9 (commencing with Section 11120) of
9 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
10 Code).

11 ~~SEC. 2. Section 6001.1 of the Business and Professions Code~~
12 ~~is amended to read:~~

13 ~~6001.1. (a) Protection of the public shall be the highest priority~~
14 ~~for the State Bar of California and the board of trustees in~~
15 ~~exercising their licensing, regulatory, and disciplinary functions.~~
16 ~~Whenever the protection of the public is inconsistent with other~~
17 ~~interests sought to be promoted, the protection of the public shall~~
18 ~~be paramount.~~

19 ~~(b) Protection of the public requires that professional legal~~
20 ~~services are provided in a competent, accessible, and ethical manner~~
21 ~~and that the judicial system functions in a fair, impartial, and just~~
22 ~~manner. For purposes of staffing and resource allocations,~~
23 ~~protection of the public is defined as the following core functions~~
24 ~~of the State Bar in the following order of priority:~~

25 ~~(1) Administration of the bar admissions and law school~~
26 ~~accreditation processes, recordkeeping and licensing functions,~~
27 ~~and the lawyer discipline system.~~

28 ~~(2) Administration of programs that advance professional~~
29 ~~competence and ethics, support the prevention of discipline~~
30 ~~problems before they occur, address the unlawful practice of law,~~
31 ~~and support the judicial selection process.~~

32 ~~(3) Administration of programs that support the fair and equal~~
33 ~~administration of justice, effective functioning of the legal system,~~
34 ~~and diversity of the profession.~~

35 ~~SEC. 3.~~

36 ~~SEC. 2. Section 6008.5 of the Business and Professions Code~~
37 ~~is repealed.~~

38 ~~SEC. 3. Section 6008.6 of the Business and Professions Code~~
39 ~~is amended to read:~~

1 6008.6. (a) The State Bar shall award no contract for goods,
2 services, or both, for an aggregate amount in excess of fifty
3 thousand dollars (\$50,000), or for information technology goods,
4 services, or both, for an aggregate amount in excess of one hundred
5 thousand dollars (\$100,000), except pursuant to the standards
6 established in Article 4 (commencing with Section 10335) of
7 Chapter 2 of Part 2 of Division 2 of the Public Contract ~~Code~~.
8 *Code and approval of the board of trustees.* The State Bar shall
9 establish a request for proposal procedure by rule, pursuant to the
10 general standards established in Article 4 (commencing with
11 Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public
12 Contract Code. For the purposes of this section, “information
13 technology” includes, but is not limited to, all electronic technology
14 systems and services, automated information handling, system
15 design and analysis, conversion voice, video, and data
16 communications, network systems, requisite facilities, equipment,
17 system controls, stimulation, electronic commerce, and all related
18 interactions between people and machines.

19 (b) *The board of trustees shall adopt policies and procedures*
20 *to require board approval of any contract that could impact the*
21 *State Bar’s ability to carry out its paramount duty to protect the*
22 *public.*

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

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

27 6011. (a) The board shall consist of no more than 19 members
28 and no fewer than 13 members.

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

39 (c) When making appointments to the board on and after
40 December 31, 2016, each appointing body should consider

1 appointing members with education or experience, or both, in at
2 least one of the following:

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

9 SEC. 6. Section 6012 of the Business and Professions Code is
10 repealed.

11 SEC. 7. Section 6013.1 of the Business and Professions Code
12 is amended to read:

13 6013.1. (a) The Supreme Court shall appoint five attorney
14 members of the board pursuant to a process that the Supreme Court
15 may prescribe. These attorney members shall serve for a term of
16 four years and may be reappointed by the Supreme Court for one
17 additional term only.

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

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

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

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

36 SEC. 8. Section 6013.2 of the Business and Professions Code
37 is repealed.

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

1 6013.3. (a) One attorney member of the board shall be
2 appointed by the Senate Committee on Rules and one attorney
3 member of the board shall be appointed by the Speaker of the
4 Assembly.

5 (b) An attorney member appointed pursuant to this section shall
6 serve for a term of four years. Vacancies shall be filled for the
7 remainder of the term. An appointed attorney member may be
8 reappointed pursuant to this section.

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

11 6013.5. (a) Effective January 1, 2017, a maximum of six
12 members of the board shall be members of the public who have
13 never been members of the State Bar or admitted to practice before
14 any court in the United States.

15 (b) Each of these members shall serve for a term of four years.
16 Vacancies shall be filled for the remainder of the term.

17 (c) Effective January 1, 2017, one public member shall be
18 appointed by the Senate Committee on Rules and one public
19 member shall be appointed by the Speaker of the Assembly.

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

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

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

26 6015. No person is eligible for attorney membership on the
27 board unless both of the following conditions are satisfied:

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

29 (b) Either:

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

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

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

38 6016. The term of office of each attorney member of the board
39 shall be four years and he or she shall hold office until his or her

1 successor is appointed and qualified. Vacancies shall be filled for
2 the remainder of the term.

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

6 SEC. 13. Section 6018 of the Business and Professions Code
7 is repealed.

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

10 6019. Each place upon the board for which a member is to be
11 appointed shall for the purposes of the appointment be deemed a
12 separate office.

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

15 6021. (a) (1) The *California* Supreme Court shall select from
16 the members of the board a chair and a vice chair to serve in the
17 absence of the chair.

18 (2) The chair and vice chair shall assume the duties of their
19 respective offices at the conclusion of the annual meeting following
20 their appointment.

21 (b) The term of the board chair and vice chair shall be one year.

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

24 6022. The secretary and treasurer of the State Bar shall be
25 selected annually by the board and need not be members of the
26 State Bar.

27 SEC. 17. Section 6026.5 of the Business and Professions Code,
28 as added by Section 3 of Chapter 537 of the Statutes of 2015, is
29 repealed.

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

33 6026.7. (a) The State Bar is subject to the Bagley-Keene Open
34 Meeting Act (Article 9 (commencing with Section 11120) of
35 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
36 Code) and all meetings of the State Bar are subject to the
37 Bagley-Keene Open Meeting Act.

38 (b) Notwithstanding any other law, the Bagley-Keene Open
39 Meeting Act shall not apply to the Judicial Nominees Evaluation

1 Commission, the Committee of Bar Examiners, or the State Bar
2 Court.

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

6 (1) Appeals from decisions of the Board of Legal Specialization
7 refusing to certify or recertify an applicant or suspending or
8 revoking a specialist's certificate.

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

11 SEC. 19. Section 6029 of the Business and Professions Code
12 is amended to read:

13 6029. (a) The board may appoint such committees, officers
14 and employees as it deems necessary or proper, and fix and pay
15 salaries and necessary expenses.

16 (b) The members of the executive committee of the board shall
17 include at least one board member appointed by each of the
18 following appointing authorities:

19 (1) The Supreme Court.

20 (2) The Governor.

21 (3) The Speaker of the Assembly.

22 (4) The Senate Committee on Rules.

23 SEC. 20. Section 6030 of the Business and Professions Code
24 is amended to read:

25 6030. (a) The board shall be charged with the executive
26 function of the State Bar and the enforcement of the provisions of
27 this chapter.

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

33 (c) Any decision of the board raising antitrust concerns is subject
34 to review, modification, veto, or other appropriate action by the
35 California Supreme Court.

36 SEC. 21. Section 6060.2 of the Business and Professions Code
37 is amended to read:

38 6060.2. (a) All investigations or proceedings conducted by
39 the State Bar concerning the moral character of an applicant shall
40 be confidential and shall not be disclosed pursuant to any state

1 law, including, but not limited to, the California Public Records
2 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
3 of Title 1 of the Government Code) unless the applicant, in writing,
4 waives the confidentiality.

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

7 (1) A lawfully issued subpoena.

8 (2) A written request from a government agency responsible
9 for either the enforcement of civil or criminal laws or the
10 professional licensing of individuals that is conducting an
11 investigation about the applicant.

12 SEC. 22. Section 6060.25 of the Business and Professions
13 Code is amended to read:

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

28 (b) (1) This section does not prohibit the disclosure of any of
29 the following:

30 (A) The names of applicants who have passed any examination
31 administered, given, or prescribed by the Committee of Bar
32 Examiners.

33 (B) Information that is provided at the request of an applicant
34 to another jurisdiction where the applicant is seeking admission
35 to the practice of law.

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.

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 subparagraphs (B)
6 to (D), inclusive, of paragraph (1) of subdivision (b) shall not
7 constitute a waiver under Section 6254.5 of the Government Code
8 of the exemption from disclosure provided for in subdivision (a)
9 of this section.

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

12 6075.6. (a) (1) The Attorney General shall appoint a State
13 Bar enforcement program monitor prior to March 31, 2017. The
14 applicant for the position shall have investigative experience, shall
15 be familiar with California laws and procedures, and, preferably,
16 shall be familiar with the rules and procedures of the State Bar
17 lawyer discipline system and relevant administrative procedures.
18 The monitor may be a state employee or his or her services may
19 be provided pursuant to contract.

20 (2) The Attorney General shall supervise the monitor and may
21 terminate or dismiss him or her from this position.

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

29 (2) This monitoring duty shall include, but not be limited to,
30 the prioritization of cases most impacting public protection,
31 improving the timeframe for the handling of complaints and in the
32 rendering of initial decisions on complaints, the efficiency of the
33 system, the fairness and courtesy given to complainants, the
34 adequacy of the staffing and the budget allocated to the discipline
35 section of the State Bar, the reduction of the complaint backlog,
36 the consistency in the application of sanctions or discipline
37 imposed, the implementation of laws affecting discipline and the
38 State Bar’s operations, disciplinary standards and rules, staff
39 concerns regarding disciplinary matters or procedures, and the
40 State Bar’s cooperation with other governmental entities charged

1 with enforcing related laws and regulations that affect members
 2 of the State Bar.

3 (3) The monitor shall exercise no authority over the State Bar’s
 4 discipline operations or staff, however, the State Bar and its staff
 5 shall cooperate with the program enforcement monitor, and the
 6 *State* Bar shall provide data, information, and case files as
 7 requested by the enforcement program monitor to perform all of
 8 his or her duties.

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

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

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

28 SEC. 24. Section 6086.5 of the Business and Professions Code
 29 is amended to read:

30 6086.5. The board of trustees shall establish a State Bar Court,
 31 to act in its place and stead in the determination of disciplinary
 32 and reinstatement proceedings and proceedings pursuant to
 33 subdivisions (b) and (c) of Section 6007 to the extent provided by
 34 rules adopted by the board of trustees pursuant to this chapter. In
 35 these proceedings the State Bar Court may exercise the powers
 36 and authority vested in the board of trustees by this chapter,
 37 including those powers and that authority vested in committees
 38 of, or established by, the board, except as limited by rules of the
 39 board of trustees within the scope of this chapter.

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

5 For the purposes of Sections 6007, 6043, 6049, 6049.2, 6050,
6 6051, 6052, 6077 (excluding the first sentence), 6078, 6080, 6081,
7 and 6082, “board” includes the State Bar Court.

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

10 The Executive Committee of the State Bar Court may adopt
11 rules of practice for the conduct of all proceedings within its
12 jurisdiction. These rules may not conflict with the rules of
13 procedure adopted by the board, unless approved by the *California*
14 Supreme Court.

15 SEC. 25. Section 6134 is added to the Business and Professions
16 Code, to read:

17 6134. (a) When the Office of the Chief Trial Counsel becomes
18 aware of an allegation that a person not licensed to practice law
19 in California has practiced or held himself or herself out as
20 practicing law or entitled to practice law in the state, the office’s
21 intake unit shall open a nonattorney complaint against that person
22 for evaluation and processing.

23 (b) The intake unit shall open a case record in the office’s case
24 management system with the complaint form received date. The
25 complaint form received date shall be the date the State Bar first
26 received the complaint. Evaluation and processing of the
27 nonattorney complaint shall include, but not be limited to, all of
28 the following:

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

32 (2) Identifying the source of the complaint.

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

36 (4) Identifying whether the allegations include potential identity
37 theft of a licensed attorney’s identity and, if so, contacting the
38 potential victim attorney to verify whether the attorney is aware
39 of the potential identify theft and whether he or she has notified
40 law enforcement.

1 (5) Evaluating the nonattorney complaint for unauthorized
2 practice of law allegations, which includes opening a corresponding
3 attorney complaint case record, if appropriate, such as in the case
4 in which the nonattorney complaint also identifies a licensed
5 California attorney potentially aiding or abetting the person in the
6 unauthorized practice of law.

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

11 (7) Determining whether to forward the complaint to the
12 enforcement unit for investigation.

13 (c) If the nonattorney complaint sufficiently alleges an
14 unauthorized practice of law violation, the intake unit shall do both
15 of the following:

16 (1) Forward the nonattorney complaint to the enforcement unit
17 for further action.

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

21 (d) If the nonattorney complaint sufficiently alleges the use of
22 “notario,” “notario publico,” or other words or phrases in violation
23 of Section 6126.7 or there is other evidence of a violation of
24 Section 6126.7, the intake unit shall forward the complaint to the
25 enforcement unit for further action.

26 (e) If the nonattorney complaint does not sufficiently allege an
27 unauthorized practice of law violation or a violation of Section
28 6126.7, the intake unit shall do all of the following:

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

30 (2) Advise the complainant in writing of the opportunity to seek
31 reconsideration of the determination.

32 (3) Process the case for closure, including updating the case
33 record.

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

36 (1) Forwarding the nonattorney complaint to the office’s
37 enforcement unit.

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

39 (g) (1) A nonattorney complaint alleging the unauthorized
40 practice of law shall be presumed to warrant a law enforcement

1 referral to federal, state, or local authorities, such as the United
2 States Attorney, the Attorney General, the local district attorney,
3 local county counsel, or local city attorney, for criminal or other
4 enforcement action.

5 (2) After the intake unit forwards a nonattorney complaint, the
6 office's enforcement unit shall make the referral required under
7 paragraph (1), where appropriate, and shall coordinate with law
8 enforcement, as appropriate, throughout the office's investigation
9 of the nonattorney complaint.

10 (3) The intake unit may, where warranted, refer nonattorney
11 complaints that do not allege the unauthorized practice of law to
12 another regulatory agency, such as the Bureau of Real Estate, the
13 Department of Consumer Affairs, the United States Securities and
14 Exchange Commission, the Federal Trade Commission, and the
15 United States Patent and Trademark Office.

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

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

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

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

27 (i) Staff of the intake unit shall maintain processing activities
28 in the nonattorney complaint case record, including the recording
29 and tracking of other regulatory agency referrals made in
30 connection with a nonattorney complaint.

31 (j) All nonattorney complaints forwarded by the intake unit to
32 the office's enforcement unit shall be investigated to determine
33 whether there is evidence of the unauthorized practice of law or
34 any violation of Section 6126.7. There shall be an appropriate law
35 enforcement referral upon assignment to a staff member of the
36 enforcement unit. Assigned enforcement unit staff shall update
37 any law enforcement agency to which the complaint was referred
38 with the status and findings of the investigation as it proceeds.
39 Upon completion of an investigation, the assigned staff of the
40 enforcement unit shall analyze the evidence to determine whether

1 the evidence is sufficient to support formal proceedings in superior
2 court.

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

5 (1) Filing enforcement proceedings in superior court.

6 (2) Issuing a cease and desist letter. Enforcement unit staff may
7 issue a cease and desist letter where the unauthorized practice of
8 law activity appears isolated in nature and unlikely to recur or
9 where it otherwise appears that a cease and desist warning will
10 sufficiently address and stop the activity at issue.

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

12 (l) Enforcement unit staff shall investigate nonattorney
13 complaints adhering to the same backlog time standard applicable
14 to attorney discipline complaints and shall resolve the complaint
15 within six months from the complaint form received date.

16 (m) Intake unit staff and enforcement unit staff shall, as
17 appropriate, maintain and update processing activities in the
18 nonattorney case record, as follows:

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

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

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

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

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

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

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

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

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

38 (2) Experience in representing individuals in removal
39 proceedings and asylum applications.

1 SEC. 26. Section 6140 of the Business and Professions Code
2 is amended to read:

3 6140. (a) The board shall fix the annual membership fee for
4 active members for 2017 at a sum not exceeding three hundred
5 fifteen dollars (\$315).

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

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

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

18 6140.56. (a) To ensure that the Client Security Fund can
19 adequately protect the public and relieve or mitigate financial
20 losses caused by the dishonest conduct of members of the State
21 Bar by paying claims in a timely manner, the State Bar shall
22 conduct a thorough analysis of the Client Security Fund, including
23 a review of the governance structure of the Client Security Fund
24 to ensure that the structure provides for the most effective and
25 efficient operation of the fund, a determination of the ongoing
26 needs of the fund to satisfy claims in a timely manner, a review
27 of additional efforts that can be taken to increase the collection of
28 payments from the responsible attorneys, and a review of other
29 State Bar expenditures to determine whether other expenditures
30 that do not directly impact the State Bar's public protection
31 functions, including, but not limited to, executive salaries and
32 benefits, can be reduced or redirected in order to better fund the
33 Client Security Fund through existing revenue, and, whether, after
34 all other options have been fully and thoroughly exhausted, an
35 increase in membership dues is necessary to ensure that the Client
36 Security Fund can timely pay claims.

37 (b) The State Bar shall submit a report on its analysis of the
38 Client Security Fund to the Legislature by March 15, 2017, so that
39 the plans can be reviewed in conjunction with the bill that would
40 authorize the imposition of the State Bar's membership fee. The

1 report shall be submitted in compliance with Section 9795 of the
2 Government Code.

3 (c) For purposes of this section, “timely manner” means within
4 12 months from the later of the time the claim is received by the
5 State Bar and upon the resolution of the underlying discipline case
6 involving an attorney member, which is a prerequisite to paying
7 the claim.

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

10 6145. (a) The board shall engage the services of an independent
11 national or regional public accounting firm with at least five years
12 of experience in governmental auditing for an audit of its revenues,
13 expenditures, reserves, and its financial statement for each fiscal
14 year. The financial statement shall be promptly certified under
15 oath by the Treasurer of the State Bar, and a copy of the audit and
16 financial statement shall be submitted within 120 days of the close
17 of the fiscal year to the board, to the Chief Justice of California,
18 and to the Assembly and Senate Committees on Judiciary.

19 The audit shall examine the receipts and expenditures of the
20 State Bar and the State Bar sections to ensure that the receipts of
21 the sections are being applied, and their expenditures are being
22 made, in compliance with subdivision (a) of Section 6031.5, and
23 that the receipts of the sections are applied only to the work of the
24 sections.

25 The audit also shall examine the receipts and expenditures of
26 the State Bar to ensure that the funds collected on behalf of the
27 Conference of Delegates of California Bar Associations as the
28 independent successor entity to the former Conference of Delegates
29 of the State Bar are conveyed to that entity, that the State Bar has
30 been paid or reimbursed for the full cost of any administrative and
31 support services provided to the successor entity, including the
32 collection of fees or donations on its behalf, and that no mandatory
33 dues are being used to fund the activities of the successor entity.

34 In selecting the accounting firm, the board shall consider the
35 value of continuity, along with the risk that continued long-term
36 engagements of an accounting firm may affect the independence
37 of that firm.

38 (b) The board shall contract with the California State Auditor’s
39 Office to conduct a performance audit of the State Bar’s operations
40 from July 1, 2000, to December 31, 2000, inclusive. A copy of the

1 performance audit shall be submitted by May 1, 2001, to the board,
2 to the Chief Justice of California, and to the Assembly and Senate
3 Committees on Judiciary.

4 Every two years thereafter, the board shall contract with the
5 California State Auditor's Office to conduct a performance audit
6 of the State Bar's operations for the respective fiscal year,
7 commencing with January 1, 2002, to December 31, 2002,
8 inclusive. A copy of the performance audit shall be submitted
9 within 120 days of the close of the fiscal year for which the audit
10 was performed to the board, to the Chief Justice of California, and
11 to the Assembly and Senate Committees on Judiciary.

12 For the performance audit due to the board, to the Chief Justice
13 of the California Supreme Court, and to the Assembly and Senate
14 Committees on Judiciary in 2017, the California State Auditor
15 shall review all of the State Bar's expenses, including, but not
16 limited to, executive salaries and benefits, outside contracts, and
17 real estate holdings, to determine the expenses that are appropriate
18 and necessary to protect the public and what the appropriate level
19 of member dues should be.

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

25 (c) (1) In addition to the audits required in subdivision (b), the
26 California State Auditor shall conduct a performance audit
27 evaluating the State Bar's progress in:

28 (A) Reviewing any changes in the State Bar's expenses made
29 as a result of prior audits by the California State Auditor.

30 (B) Correcting any issues raised in prior audits by the California
31 State Auditor.

32 (C) Increasing operational effectiveness and efficiency.

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

37 SEC. 29. The Legislature finds and declares that Sections 18
38 and 24 of this act, which amend Sections 6026.7 and 6086.5 of
39 the Business and Professions Code, impose a limitation on the
40 public's right of access to the meetings of public bodies or the

1 writings of public officials and agencies within the meaning of
2 Section 3 of Article I of the California Constitution. Pursuant to
3 that constitutional provision, the Legislature makes the following
4 findings to demonstrate the interest protected by this limitation
5 and the need for protecting that interest:

6 In order to protect the decisionmaking process of the State Bar
7 Court in a manner that is similar to the deliberative functions of
8 other courts and in order to ensure that personal or sensitive
9 information regarding discipline by the State Bar Court is kept
10 confidential, including for persons participating in discussions and
11 offers of settlement pursuant to arbitration or mediation, it is
12 necessary to exempt the State Bar Court from the provision of the
13 Bagley-Keene Open Meeting Act and the California Public Records
14 Act.

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