

---

UNFINISHED BUSINESS

---

Bill No: SB 211  
Author: Umberg (D)  
Amended: 9/2/21  
Vote: 21

---

SENATE JUDICIARY COMMITTEE: 11-0, 5/4/21

AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE FLOOR: 37-0, 5/10/21 (Consent)

AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk

NO VOTE RECORDED: Caballero, Limón, Stern

ASSEMBLY FLOOR: 72-0, 9/7/21 - See last page for vote

---

**SUBJECT:** State Bar: board of trustees: reports: complaints: attorneys' annual license fees: California Lawyers Association: Legal Services Trust Fund Commission: expenditure of funds

**SOURCE:** Author

---

**DIGEST:** This bill authorizes the State Bar to collect an annual license fee for active licensees and inactive licensees for 2022 in the same amount as 2021. This bill removes governance restrictions that were imposed by statute on the California Lawyers Association and removes obsolete provisions of the State Bar Act.

*Assembly Amendments* authorize the State Bar to collect a license fee for active and inactive licensees for 2022 in the same amount as 2021, codify the Legal Services Trust Fund Commission, make changes to the Annual Discipline Report, require the State Bar to establish and report on processing goals for discipline cases by

October 21, 2022, make changes to legal services funding, and provide chaptering out amendments with SB 498 (Umberg).

**ANALYSIS:**

Existing law:

- 1) Establishes that protection of the public, which includes support for greater access to, and inclusion in, the legal system, shall be the highest priority for the State Bar and the Board of Trustees (Board) in exercising their licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (Bus. & Prof. Code § 6001.1.)
- 2) Requires all attorneys who practice law in California to be licensed by the State Bar and establishes the State Bar for the purpose of regulating the legal profession. The Legislature sets the annual fees. (Bus. & Prof. Code § 6000 et seq.)
- 3) Authorizes the State Bar to collect the following fees from active licensees for the year 2021:
  - a) \$395 annual license fee for 2021. (Bus. & Prof. Code § 6140.)
  - b) \$40 fee for the CSF. (Bus. & Prof. Code § 6140.55.)
  - c) \$25 fee for the costs of the disciplinary system. (Bus. & Prof. Code § 6140.6.)
  - d) \$10 fee for the attorney diversion and assistance program. (Bus. & Prof. Code § 6140.9.)
- 4) Authorizes the State Bar to collect the following fees from inactive licensees for the year 2021:
  - a) \$97.40 annual license fee. (Bus. & Prof. Code § 6141 (a).)
  - b) \$10 fee for the CSF. (Bus. & Prof. Code § 6140.55)
  - c) \$25 fee for the costs of the disciplinary system. (Bus. & Prof. Code § 6140.6.)
  - d) \$5 fee for the attorney diversion and assistance program. (Bus. & Prof. Code § 6140.9.)
  - e) An inactive licensee who is 70 years old or older is not required to pay an annual license fee. (Bus. & Prof. Code § 6141 (b).)

- 5) Requires the State Bar to charge a \$45 fee in addition to the annual license fee for active and inactive licensees for the purposes of funding legal services for persons of limited means, as provided, unless a licensee elects not to support those activities in which case the licensee can deduct the amount from the annual license fee. Requires \$5 of the \$45 fee to be allocated to qualified legal services projects or qualified support centers, as defined, to hire law school graduates with a temporary provisional license issued by the State Bar, as provided. (Bus. & Prof. Code § 6140.03.)
- 6) Provides for the establishment of the California Lawyers Association as a private nonprofit corporation composed of what were formerly the sections of the State Bar. Requires the State Bar to assist the sections to incorporate as a private, nonprofit corporation and transfer the functions and activities of the 16 State Bar sections and the California Young Lawyers Association to the new private, nonprofit corporation. Specified the governance structure of the California Lawyers Association and required that the bylaws must ensure that the governing board include one representative of each of the 16 sections and one representative from the California Young Lawyers Association and that each governing board member have equal voting power on the governing board, among other things. (Bus. & Prof. § 6056(a).)
- 7) Requires the State Bar Board of Trustees to establish and administer the Client Security Fund to relieve or mitigate pecuniary losses caused by dishonest conduct of active members of the State Bar, as specified. (Bus. & Prof. Code § 6140.5.)
- 8) Requires the State Bar to contract with the California State Auditor's Office to conduct a performance audit of the State Bar's operations every two years.<sup>1</sup> (Bus. & Prof. Code § 6145 (b).)
- 9) Requires the State Bar board to appoint a chief trial counsel and to notify the Senate Committee on Rules and Senate and Assembly Committees on Judiciary within seven days of the dismissal or hiring of a chief trial counsel. The appointment of the chief trial counsel is subject to confirmation by the Senate, as specified. (Bus. & Prof. Code § 6079.5.)

---

<sup>1</sup> *The State Bar of California: It Is Not Effectively Managing Its System for Investigating and Disciplining Attorneys Who Abuse the Public Trust* (Auditor of the State of California) April 2021, available at <https://www.auditor.ca.gov/pdfs/reports/2020-030.pdf> (as of May 1, 2021).

- 10) Provides that the chief trial counsel, with or without the filing or presentation of any complaint, may initiate and conduct investigations of all matters affecting or relating to: the discipline of the licensees of the State Bar; the acts or practices of a person whom the chief trial counsel has reason to believe has violated or is about to violate any provision of Articles 7 (commencing with Section 6125) and 9 (commencing with Section 6150) of the State Bar Act; and any other matter within the jurisdiction of the State Bar. (Bus. & Prof. Code § 6044.)
- 11) Provides that it shall be the goal and policy of the State Bar to dismiss a complaint, admonish the attorney, or forward a completed investigation to the Office of Trial Counsel within six months after receipt of a written complaint. As to complaints designated as complicated matters by the chief trial counsel, it shall be the goal and policy of the State Bar to dismiss, terminate by admonition, or forward those complaints to the Office of Trial Counsel within 12 months. (Bus. & Prof. Code § 6094.5 (a).)
- 12) Provides that the State Bar shall issue an annual discipline report by April 30 of each year describing the performance and condition of the State Bar discipline system, including all matters that affect public protection. (Bus. & Prof. Code § 6085.15 (a).)
- 13) Provides that the annual discipline report shall include statistical information presented in a consistent manner for year-to-year comparison and shall compare the information required under 6086.15 (a) to similar information for the previous three years. (Bus. & Prof. Code § 6085.15 (b).)
- 14) Provides that the report shall cover the previous calendar year and shall include accurate and complete descriptions, as specified. (Bus. & Prof. Code § 6085.15(a))
- 15) Authorizes funding for legal services, as provided. (Bus. & Prof. Code § 6141.3, 6213, 6216, & 6223.)

This bill:

- 1) Authorizes the license fee for active and inactive licensees for 2022 for the same amount as 2021.
- 2) Removes governance restrictions that were imposed by statute on the California Lawyers Association.

- 3) Removes obsolete provisions of the State Bar Act.
- 4) Requires the Annual Discipline report to include additional information and be issued by October 31 of each year instead of April 30.
- 5) Requires the State Bar to establish and report on processing goals for discipline cases by October 21, 2022, and requires the framework to be reviewed by the Legislative Analyst's Office, which will report to the Judiciary Committees.
- 6) Provides that it is the intent of the Legislature to enact processing goals for the State Bar's discipline system based on the proposed framework and Legislative Analyst's Office report to improve the effectiveness of the discipline system, best protect the public, and allow for adequate oversight of the State Bar.
- 7) Codifies the Legal Services Trust Fund Commission.
- 8) Authorizes qualified legal services projects or support centers to elect in writing to direct their allocation of specified funds for that year to instead be used to provide grants for law students and graduates at qualified legal services projects and support centers, as provided.
- 9) Allows IOLTA funds to be used to fund legal services related to expungements, record sealing or clearance proceedings, and infractions.
- 10) Provides chaptering out amendments for SB 498 (Umberg).

## **Background**

The State Bar of California (State Bar) is a public corporation and the largest state bar in the country. Attorneys who wish to practice law in California generally must be admitted and licensed in this state and must be members of the State Bar. (Cal. Const., art. VI, § 9.) This bill is the annual State Bar licensing fee bill.

The Auditor of the State of California (Auditor) is required by law to conduct a performance audit every two years of the State Bar's operations. This year's audit report is entitled "The State Bar of California: It Is Not Effectively Managing Its System for Investigating and Disciplining Attorneys Who Abuse the Public Trust"

and was released on April 29, 2021.<sup>2</sup> The audit report details how the State Bar's changes to its discipline system have significantly reduced that system's efficiency. The Auditor notes that "the State Bar's backlog grew by 87 percent from the end of December 2015, to the end of June 2020." As pointed out by the Auditor, this "growing backlog allows attorneys who are under investigation more time to continue practicing law while their cases are pending, increasing the risk for potential harm to the public." The Auditor's "analysis indicates that both higher- and lower-priority cases are taking significantly longer to resolve." Additionally, as the Auditor highlights, the "State Bar is also disciplining attorneys at a drastically lower rate for reasons it cannot adequately explain. From 2015 through 2019, the total number of cases that resulted in discipline—including reprovations, suspensions, and disbarments—declined by 54 percent."

It is clear from the Auditor's audit report that there are serious issues with the State Bar's management of its system for investigating and disciplining attorneys. The State Bar Act provides that the State Bar's chief trial counsel is subject to Senate confirmation. However, the State Bar had not followed the statute and instead managed its discipline system without a Senate confirmed chief trial counsel for over five years. In August of 2022, the State Bar finally appointed a chief trial counsel. In light of this development, this bill authorizes the State Bar to collect a licensing fee for 2022 in the same amount as 2021.

This bill makes changes to the Annual Discipline report in response to the Auditor's analysis, such as requiring additional information and making it due earlier. The bill also requires the State Bar to establish and report on processing goals for discipline cases by October 21, 2022 that, among other things, provide a framework to analyze how quickly cases can be processed taking into account relevant factors, such as public protection and the complexity of cases. The framework is to be developed by consulting with state and national experts in attorney discipline, reviewing case processing standards in at least five other states, and reports from the Legislative Analyst's Office and the California State Auditor. The Legislative Analyst's Office will review the framework report to the Judiciary Committees. The bill provides it is the intent of the Legislature to enact processing goals for the State Bar's discipline system based on the proposed framework and Legislative Analyst's Office report to improve the effectiveness of the discipline system, best protect the public, and allow for adequate oversight of the State Bar.

---

<sup>2</sup> *The State Bar of California: It Is Not Effectively Managing Its System for Investigating and Disciplining Attorneys Who Abuse the Public Trust* (Auditor of the State of California) April 2021, available at <https://www.auditor.ca.gov/pdfs/reports/2020-030.pdf> (as of May 1, 2021).

The bill codifies the Legal Services Trust Fund Commission and makes changes to legal services funding. Lastly, the bill provide chaptering out amendments for SB 498 (Umberg).

## Comments

According to the author:

The California Lawyers Association (CLA), formerly the sections of the California State Bar, was incorporated as a non-profit corporation in 2018. The CLA was authorized by SB 36 (Jackson, Ch. 422, Stats. 2017) as part of a series of major reforms to the State Bar Act. SB 36 specified that the State Bar would assist the sections in incorporating as a private, nonprofit corporation and transfer the functions and activities of the 16 State Bar sections and the California Young Lawyers Association to the new private, nonprofit corporation. The bill also specified the governance structure of the CLA and required that the bylaws ensure that the governing board include one representative of each of the 16 sections and one representative from the California Young Lawyers association. SB 36 also required each governing board member to have equal voting power on the CLA governing board. SB 211 removes these governance restrictions at the request of the California Lawyers Association.

This measure also authorizes the State Bar to collect licensing fees from California attorneys. In 2019, after years of requests from the State Bar to increase the annual license fee, the Legislature approved a significant increase in the licensing fee paid by attorneys for 2020. The 2020 fee increase was less than half of what the State Bar originally sought and instead reflected an amount justified by the analysis of the State Auditor and Legislative Analyst's Office. The fee approved for 2021 was \$34 less for active attorneys than it was in 2020.

It is clear from the State Auditor's April 29, 2021 audit report that there are serious issues with how the State Bar has managed its system for investigating and disciplining attorneys. The State Bar has been managing its discipline system without a Senate confirmed chief trial counsel for over five years. In order to ensure that the State Bar actually followed through with the Senate confirmation process as required by statute, SB 211 prohibited the State Bar from charging active and inactive attorneys a licensing fee for 2022 unless and until the Senate confirmed the appointment of the chief trial counsel. I am pleased that the State Bar

finally appointed a chief trial counsel in August 2022 and amended the bill to allow a license fee for 2022 to be collected in the same amount as 2021.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: No Local: No

**SUPPORT:** (Verified 9/7/21)

California Lawyers Association  
Civil Justice Association of California

**OPPOSITION:** (Verified 9/7/21)

None received

**ARGUMENTS IN SUPPORT:** The California Lawyers Association writes the following in support of the removal of their governance restrictions:

Section 6056(b) was added as part of SB 36 (Jackson), Statutes of 2017, Chapter 422, the bill that deunified the State Bar of California, created CLA, and contained other significant reforms of the State Bar.

SB 36 moved the 16 State Bar Sections and the California Young Lawyers Association (CYLA) into CLA, a new nonprofit corporation that was to be established by the State Bar. At the time, there was a great deal of discussion about the governance of what would be the newly formed CLA, in light of the transition of the Sections and CYLA from the State Bar to CLA. This ultimately resulted in Section 6056(b), mandating that certain specified provisions be contained in CLA's bylaws.

In March 2020, CLA's Board of Representatives voted unanimously to seek removal of Section 6056(b). CLA has been up and running successfully since the beginning of 2018. CLA's Board of Representatives supports the removal of Section 6056(b), providing CLA with more flexibility to self-govern, thereby bringing the association more in line with other independent professional associations.

**ASSEMBLY FLOOR:** 72-0, 9/7/21

**AYES:** Aguiar-Curry, Arambula, Bennett, Berman, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low,



Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks

NO VOTE RECORDED: Bauer-Kahan, Bloom, Gabriel, Lorena Gonzalez, Gray, Levine, Wood, Rendon

Prepared by: Margie Estrada / JUD. / (916) 651-4113, Amanda Mattson / JUD. / (916) 651-4113  
9/7/21 20:38:55

\*\*\*\* **END** \*\*\*\*