

VETO MESSAGE FOR SB 1145 (Burton)  
DATE: 10/11/1997

To the Members of the California Senate:

I am returning Senate Bill No. 1145 without my signature.

This bill would authorize the State Bar to collect annual bar dues from its members for the years 1998 and 1999. The dues would be reduced by \$20 and the annual amount frozen until January 1, 2000. This bill also would authorize the State Bar to continue collecting an additional fee of \$110 to be used exclusively for discipline augmentation during the same time frame noted above.

The State Bar is authorized to regulate the practice of law in California. It licenses, regulates, and has the authority to discipline nearly 122,000 attorneys in California. The California Bar is a mandatory bar in that all California attorneys must be members in order to practice law. Its fee-based budget exceeds \$65 million annually.

Last year, a significant minority of bar members voted to abolish the mandatory bar in favor of a voluntary model embraced in ten other states. This difference of opinion as to the mandatory nature of the Bar is at the heart of what might be charitably characterized as an almost chronic disharmony. Simply stated, some members believe that the Bar cannot function effectively as both a regulatory and disciplinary agency as well as a trade organization designed to promote the legal profession and collegial discourse among its members.

In addition to the conflict inherent in the Bar's multiple functions, recent lawsuits illustrate the long held belief of some members that the Bar is partisan, representing the views of the most vocal while excluding or opposing the interests of others.

Some of these less favored members were vindicated in 1990 when the U.S. Supreme Court in *Keller v. State Bar of California* 496 U.S.1, concluded that the Bar had impermissibly spent bar dues to promote political positions offensive to some of its members.

The bar has responded to *Keller* by conducting business as usual while offering a minuscule rebate to those opposed. Unappeased, several bar members (including one former and one current member of the Legislature) sued this year asserting that the Bar had violated its members' rights by taking positions on legislation with which members disagree.

In recent months, as disgruntled members have leveled charges that the Bar is bloated, arrogant, oblivious and unresponsive, the Bar has promptly done its best to verify each indictment.

During the past year the Bar has, in no particular order:

- Entered into a \$900,000 contract with its former executive officer to provide lobbying services for two years. The contract initially included an illegal \$75,000 bonus to be paid if this bill were signed into law.
- Hired a new executive officer for \$200,000 per annum plus perks.
- Endorsed legislation which would increase liability limits in medical malpractice cases over the objection of the civil defense bar.

- Resisted proposals to significantly reduce bar dues, calling instead for a \$20 annual reduction in dues offset by the extension of a \$110 per year increase in dues.
- Resisted, in fact deleted, amendments to this bill which would have required a Bar dues bill next year and thus increased legislative oversight.

Members of the California Bar currently pay \$478 in annual bar dues. Two studies, one by the State Auditor and another by a committee chaired by U.S. Court of Appeals Judge Arthur Alarcon, found a significant glut in the Bar's budget and called for a substantial reduction. In the case of the Alarcon Committee, the recommended reduction was \$79 per year. Indeed, California bar dues are more than twice the average of the other forty-nine states, which is approximately \$200 per year. None of this appears to be of any consequence to the Bar, but then the Bar's own small army of staff attorneys pays no bar dues at all.

At the end of a tumultuous legislative year, the State Bar last month conducted its annual convention in San Diego where delegates promptly got down to business and adopted resolutions:

\* in favor of legalizing same sex marriages \* to prohibit discrimination against transvestites and transsexuals \* to reduce penalties for drug dealers \* to reduce penalties for repeat child molesters \* to thwart the will of the voters relative to affirmative action at state law schools

It is difficult to draw a clear conclusion as to the direction of the California State Bar. Created in 1927, the Bar is designed to act as an arm of the California Supreme Court with responsibility for regulating the legal profession and promoting fair and efficient administration of justice. The Bar has drifted, however, and become lost, its ultimate mission obscured. It is now part magazine publisher, part real estate investor, part travel agent, and part social critic, commingling its responsibilities and revenues in a manner which creates an almost constant appearance of impropriety.

It is time for the Bar to get back to basics: admissions, discipline and educational standards. I would look with favor upon a bill that required Bar members to pay only for functions which were, in fact, a mandatory part of a responsible, cost efficient regulatory process: a process which would require the Bar, in word and deed, to scrupulously heed Thomas Jefferson's admonition that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical."

Cordially,

PETE WILSON