

Senate Bill No. 144

CHAPTER 342

An act to amend Sections 6068, 6070, 6085, and 6141.1 of, to add Sections 6008.6, 6031.5, and 6140.05 to, to add and repeal Section 6140 of, and to repeal and add Section 6145 of, the Business and Professions Code, relating to the State Bar.

[Approved by Governor September 7, 1999. Filed
with Secretary of State September 7, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 144, Schiff. State Bar: membership fees.

Existing law establishes the State Bar. The Board of Governors of the State Bar has broad responsibilities for the State Bar's operation and function, including, among other things, administration of the State Bar, admission to the practice of law, and disciplinary authority over its members.

This bill would revise various provisions relating to the State Bar.

(1) Existing rules and regulations of the State Bar provide for the creation of, and specify the functions and activities of, the Conference of Delegates, which represents locally based general bar associations. Existing rules and regulations of the State Bar also provide for advisory organizations of the State Bar known as sections.

This bill would provide that the Conference of Delegates of the State Bar and State Bar sections shall not be funded with mandatory fees after January 1, 2000, but would authorize the State Bar to provide the Conference of Delegates and State Bar sections with administrative and support services, subject to full reimbursement, as specified.

(2) Existing law imposes various duties on attorneys. Among other things, it requires attorneys to cooperate and participate in any disciplinary investigation or other regulatory or disciplinary proceeding pending against the attorney.

This bill would provide that this requirement shall not be construed to require an attorney to cooperate with a request that requires the attorney to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the attorney's practice, as specified.

Existing law provides that a person complained against in a disciplinary action of the State Bar shall be given a reasonable notice and have a reasonable opportunity to exercise various rights, including the right to defend, to receive exculpatory evidence, to be represented by counsel, and to examine and cross-examine witnesses.

This bill would also provide that the notice and rights shall be fair and adequate, as well as reasonable, and would also specify that the person has a right to exercise any right guaranteed by the California or United States Constitution, including the right against self-incrimination.

(3) Existing law requires the State Bar to request the California Supreme Court to adopt a rule authorizing a mandatory continuing legal education program. Existing law establishes minimum hours of participation, and exempts various persons from the requirement.

This bill would reduce the required hours, would eliminate the exemption for retired judges, would encourage the use of low-cost programs, would set forth findings, and would make related changes.

(4) Existing law, until January 1, 1998, required the Board of Governors of the State Bar to establish annual membership fees for active members based on the amount of time the member has been practicing law, as specified. Existing law also provides for additional fees.

This bill would provide for an annual fee not exceeding \$318. This provision would be repealed on January 1, 2001.

The bill would also require the invoice for the annual fee to provide each member the option of deducting \$5 from the annual fee if the member elects not to support lobbying and related activities, and would prohibit the Board of Governors of the State Bar from expending a sum exceeding the number of members paying the \$5 fee, multiplied by \$5.

The bill would require the Board of Governors of the State Bar to adopt a rule to permit members whose income from the practice of law is less than a specified amount to presumptively qualify for a waiver of a portion of the annual membership fees based on hardship.

Existing law requires the Board of Governors of the State Bar to prepare an annual financial statement for the State Bar, which is required to be certified under oath by the President and the Treasurer of the State Bar to the Chief Justice of the Supreme Court.

This bill would require the Board of Governors of the State Bar to contract with a nationally recognized independent public accounting firm to conduct an audit of the State Bar's financial statement for each fiscal year beginning after December 31, 1998. It would require the financial statement to be certified under oath by the Treasurer of the State Bar, and a copy of the audit and the financial statement to be submitted within 120 days of the close of the fiscal year to the Board of Governors of the State Bar, the Chief Justice of the Supreme Court, and the Assembly and Senate Committees on Judiciary. It would also require the Board of Governors of the State Bar to contract with the Bureau of State Audits to conduct a performance audit of the State Bar's operations from July 1, 2000, through December 31, 2000, inclusive, and would require a copy of the performance audit to be submitted by May 1, 2001, to



the Board of Governors of the State Bar, the Chief Justice of the Supreme Court, and the Assembly and Senate Committees on Judiciary. It would require that the Board of Governors contract with the Bureau of State Audits every 2 years thereafter to conduct a performance audit of the State Bar's operations for the respective fiscal year, commencing with January 1, 2002, to December 31, 2002, inclusive, and would require a copy of the performance audit to be submitted within 120 days of the close of the fiscal year for which the audit was performed to the Board of Governors of the State Bar, the Chief Justice of the Supreme Court, and the Assembly and Senate Committees on Judiciary. It would authorize the Bureau of State Audits to contract with a 3rd party to conduct these performance audits.

The bill would prohibit the State Bar from awarding a contract for goods, services, or both, for an aggregate amount in excess of \$50,000, except pursuant to specified provisions of the Public Contract Code. The bill would make related changes. It would also provide that its provisions shall become operative only if SB 143 of the 1999–2000 Regular Session is enacted.

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

SECTION 1. Section 6008.6 is added to the Business and Professions Code, to read:

6008.6. The State Bar shall award no contract for goods, services, or both, for an aggregate amount in excess of fifty thousand dollars (\$50,000), except pursuant to the standards established in Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code. The State Bar shall establish a request for proposal procedure by rule, pursuant to the general standards established in Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

SEC. 1.5. Section 6031.5 is added to the Business and Professions Code, to read:

6031.5. (a) The Conference of Delegates, as established under and pursuant to Article 6 of the Rules and Regulations of the State Bar, shall not be funded after January 1, 2000, with mandatory fees collected pursuant to subdivision (a) of Section 6140.

The State Bar may provide the Conference of Delegates with administrative and support services, provided the State Bar shall be reimbursed for the full cost of those services out of funds collected pursuant to subdivision (c), funds raised by or through the activities of the Conference of Delegates, or other funds collected from voluntary sources. The financial audit specified in Section 6145 shall confirm that the amount assessed by the State Bar for providing the services reimburses the costs of providing them, and shall verify that mandatory dues are not used to fund the Conference of Delegates.

