

Senate Bill No. 60

CHAPTER 782

An act relating to the State Bar of California.

[Approved by Governor October 12, 1995. Filed
with Secretary of State October 12, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 60, Kopp. State Bar of California: mandatory membership.

Existing law provides that the State Auditor shall conduct financial and performance audits as directed by statute. These audits may be conducted of any state agency or any local governmental agency.

This bill would require the State Bar to contract with the State Auditor to conduct a comprehensive management audit of the State Bar.

The State Bar Act provides that the membership of the State Bar is composed of all persons admitted and licensed to practice law in this state, except certain judges and justices. No person may practice law in this state without being an active member of the State Bar.

This bill would require the State Bar to conduct a plebiscite of its active members in good standing to determine whether the members favor abolishing the State Bar as the agency regulating lawyers, as specified. The bill would specify the contents of the ballot for the plebiscite, which would include an analysis by the Legislative Analyst. The Board of Governors would be required to report the results of the plebiscite to the Supreme Court, Governor, and Legislature by July 1, 1996.

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

SECTION 1. The State Bar shall contract with the State Auditor to conduct a comprehensive management audit of the State Bar. The audit shall take account of all previous audits, reviews, and studies of the State Bar and shall include findings and recommendations relating to the following: (a) the cost and efficiency of the discipline system; (b) the consolidation of State Bar offices in San Francisco and Los Angeles; (c) an appropriate level of funds to be maintained in the Building Fund; (d) the methods of setting executive and other staff salaries and the amount of managerial and supervisory staffing; (e) the costs of travel, meals, retreats, and other expenditures; (f) the amount of membership fees required for the State Bar to fulfill its mandated functions; and (g) the amount of membership fees used by the State Bar for its legislative activities.

The State Auditor shall conduct or oversee the audit. Duplication of previous audits, reviews, and studies of the State Bar shall be avoided. The State Auditor shall report the tentative results of the audit to the State Bar for review and comment at least five business days prior to filing its report with the Supreme Court, Governor, and Legislature by July 1, 1996. The cost of the audit shall not exceed one hundred thousand dollars (\$100,000).

SEC. 2. The State Bar shall conduct a plebiscite of its active members in good standing with respect to the following question:

Shall the State Bar be abolished as the agency regulating lawyers in this state on behalf of the Legislature and Supreme Court, with its regulatory functions turned over to another body or bodies and some or all of its other activities handled by a voluntary bar association or associations?

The State Bar shall conduct the plebiscite by sending each active member a ballot setting forth the above question, along with an envelope preaddressed to the appropriate authority responsible for compiling the results of the plebiscite and reporting to the Board of Governors of the State Bar. Active members of the State Bar do not include justices and judges of courts of record during their continuance in office or retired justices and judges of courts of record who are inactive. In order to reduce the cost associated with conducting the plebiscite, the ballot shall be mailed as part of a regularly scheduled mailer from the State Bar to active members, including, but not limited to, the annual dues statement.

The State Bar shall cause to be produced and sent with each ballot a ballot pamphlet including two arguments in favor of an affirmative answer to the question posed, two arguments in favor of a negative answer, one rebuttal argument responding to the affirmative arguments, and one rebuttal argument responding to the negative arguments. Each argument may not exceed 500 words. Each rebuttal argument may not exceed 250 words. Any active member of the State Bar may seek permission from the Secretary of State to prepare and file an argument for or against the question. The Secretary of State shall grant permission to up to two active members. If three or more active members of the State Bar submit arguments on the same side of the question, the Secretary of State shall designate two of the members to write arguments. The Secretary of State shall designate one of the two members writing arguments on the same side of the question to write the rebuttal argument. No more than three signatures may appear with any argument printed in the ballot pamphlet. Any argument prepared under this section shall be submitted to the Secretary of State by a date sufficient to meet ballot printing deadlines.

The ballot pamphlet shall include an analysis prepared by the Legislative Analyst. The analysis shall describe the question, including the effect of the question on existing law, and shall



generally set forth, in an impartial manner, the information that the average member needs to understand the question adequately. The analysis shall identify the State Bar's regulatory functions (relating to admission, discipline, rules of professional conduct, continuing legal education, the Client Security Fund, the Legal Services Trust Fund, and the Commission on Judicial Nominees Evaluation) and shall include a statement that attorneys practicing law in this state would probably be required to pay a fee to support the cost of that regulation by another body or bodies.

Members shall be instructed to answer the question by checking the appropriate box on the ballot, "yes" or "no," and returning the ballot to the State Bar by a date to be determined by a panel of four persons established for the purpose of assuring that the plebiscite is conducted in a fair, honest, and unbiased manner. For that purpose, the panel shall monitor the conducting of the plebiscite and the compiling and reporting of the results. The panel shall have final authority, subject to judicial review, to decide any questions that may arise concerning the conducting of the plebiscite or the compiling or reporting of its results. The author of each argument appearing in the ballot pamphlet shall designate one member of the monitoring panel. The Board of Governors of the State Bar shall report the results of the plebiscite to the Supreme Court, Governor, and Legislature by July 1, 1996.

