

6.2 Update Regarding 2023–2024 Legislative Session



The State Bar of California

OPEN SESSION AGENDA ITEM 6.2 SEPTEMBER 2024 BOARD OF TRUSTEES

DATE: September 19, 2024

TO: Members, Board of Trustees

FROM: Donna S. Hershkowitz, Chief Mission Officer / Legislative Director
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Admissions, Access & Inclusion

SUBJECT: Update Regarding 2023–2024 Legislative Session

EXECUTIVE SUMMARY

The 2023–2024 Legislative Session came to a close on August 31, 2024. The governor has until September 30, 2024, to sign or veto all bills presented to him. This informational staff report highlights bills either signed by the governor or awaiting the governor’s signature that have the most significant impact for the State Bar. In early October, staff will produce a year end bill summary that includes a more comprehensive list, including bills that impact the State Bar as an employer, state agency, contractor for goods and services, etc. This report before the Board today focuses on a few key pieces of legislation that are specific to the State Bar and its operations.

RECOMMENDED ACTION

Informational item only.

DISCUSSION

During this second year of the 2023–2024 legislative session, the Board of Trustees identified a slate of affirmative legislative proposals it sought to advance, and one key legislative priority—securing a critically needed fee increase. That priority and many of the affirmative proposals put forward successfully advanced through the Legislature in AB 3279 (Judiciary) and SB 1476 (Blakespear). Two other pieces of legislation—AB 2505 (Gabriel) and SB 940 (Umberg)—both impose requirements on the State Bar in an effort to improve public protection and to advance

access to legal services. This staff report describes the key components of each of these pieces of legislation and, at a high level, the implementation steps required.

AB 3279 (JUDICIARY) – STATE BAR LICENSING FEE BILL

Status as of September 9, 2024: Awaiting action by the governor

This bill is largely comprised of State Bar initiated proposals to impose a critically needed fee increase and make a variety of other statutory changes to improve operations of the State Bar and enhance the State Bar’s ability to carry out its mission.

Licensing Fees

The bill imposes the following license fee increases for active licensees:¹

- **\$77 for maintaining existing operations**, including:
 - \$62 for contractual obligations—primarily obligations to employees for 2025 COLAs, merit increases, benefit increases. Funding is designed to move the State Bar from its current 8 percent vacancy rate to a 15 percent vacancy rate by April 1, 2027. This increase is also intended to cover costs of contractual increases in IT licenses.
 - \$15 toward the costs of the San Francisco building lease.
- **\$11 for improving public protection**:
 - \$5.50 to expand the reach of the Client Trust Account Protection Program (CTAPP), including authorization to conduct audits of client trust accounts.
 - \$5.50 to fund diversion efforts in the Office of the Chief Trial Counsel (OCTC), Mandatory Fee Arbitration (MFA), and the Office of the Public Trust Liaison (PTL).

Next Steps

Assuming the governor signs the fee bill, staff will begin:

- Actively planning for the implementation of steps to increase the vacancy rate beginning in 2025
- Planning for hiring and an audit management system to support the funded expansion of CTAPP
- Planning for hiring and an online dispute resolution platform to support the funded expansion of diversionary programming.

Fee Related Items

- **Flexibility in setting payment due date**: eliminating the statutory due date for payment of licensing fees (February 1 or next business day if February 1 is a nonbusiness day) to provide the State Bar flexibility in setting the due date.
- **Installment payments**: providing the option for an installment plan for licensees who currently qualify for a 25 percent waiver of fees based on demonstration of total individual gross income below \$60,478.35; allows the State Bar to collect costs associated with implementing an installment plan.

¹ Proportionate increases are authorized for inactive licensees.

- **Legal services summer fellowships:** increases the earmark for legal services summer fellowships from \$5 to \$10 of the \$45 legal services opt-in contribution and extends the program for another five years.

Next Steps

Assuming the governor signs the fee bill, staff will begin:

- Planning for new licensee payment due date windows that will be designed to spread the workload associated with the annual billing process.
- Identifying a vehicle to administer the new installment payment option.
- Making necessary changes to ensure the funds received for the \$10 earmark for summer fellowships is properly tracked.

Nonlicensing Related Statutory Changes

- **Reimbursement of \$2 million to General Fund:** authorizes the Board of Trustees to repay \$2 million paid from the general fund and legislative activities fund to the Client Security Fund in 2017 and deposit those funds back in the General Fund.
- **FTB Tax Intercept:** permits funds collected through the FTB's Tax Intercept Collections Program to be deposited into the State Bar General Fund in 2025. In 2026, these collections return to the Legal Services Trust Fund Program.
- **Offer and compromise of debt owed to State Bar:** creates the flexibility to allow the Bar to establish an offer and compromise program to incentivize the payment of debts and create the potential for significant collections in 2025. The bill allows 50 percent of the collections that represent reimbursement for amounts paid by the Client Security Fund to go to the General Fund in 2025, with the remaining 50 percent to the Client Security Fund.
- **Removal of Board members for cause:** adopts the same removal standard as in statute for boards under the Department of Consumer Affairs, allowing the appointing authority to remove a member for continued neglect of duties, incompetence, or unprofessional or dishonest conduct.
- **Law School Regulation:** eliminates regulation/oversight responsibilities related to "legal programs in nonlaw schools," authority which has not been exercised by the Committee of Bar Examiners to date.
- **Report on Testing Accommodation Complaints:** requires the State Bar to report to the Legislature annually related to complaints raised about access issues at bar exam test sites.
- **Salary increase for State Bar Court judges:** increases compensation of State Bar Court hearing judges from 91.3225 percent of superior court judges' salary to the full salary of superior court judges. Increases compensation of State Bar Court review department judges from the same salary as superior court judges to the same salary as court of appeal justices.
- **Enhanced bank reporting:** requires all financial institutions to annually report trust account information to the State Bar, including the full account number, the State Bar number of the account holder, and the balance in the account as of December 31 of the preceding year.
- **Attorney oath:** provides that oaths administered for admission to the State Bar, if taken before a judge or court in another state or foreign country, do not need to be certified by the clerk of court under seal.

- **Lawyer Referral Service (LRS) Reform:** permits the State Bar to establish a partnership program between LRS organizations and nonprofits and removes the statutory cap on LRS certification fees the State Bar can charge so that program revenue can be better brought in line with program expenditures.

Next Steps

Assuming these changes are codified into law staff will:

- Design and implement an offer and compromise program for debt owed to the State Bar, including discipline costs and reimbursement for payouts made by the Client Security Fund.
- Update procedure for 2025 to direct proceeds of the FTB Tax Intercept Program to the General Fund in lieu of the Legal Services Trust Fund.
- Update the Board Policy manual and Board orientation materials to reflect the reasons for removal.
- Develop a process to collect complaints related to testing accommodations at Bar Exam test sites and ensure that the statutorily required data elements are captured; report annually to the Legislature commencing July 1, 2026.
- Develop a new form for attorneys to furnish their State Bar licenses number to the financial institution where they maintain a trust account.
- Reach agreement with financial institutions on the format financial institutions will use to provide the State Bar the account number of the client trust account, the name and bar number of the attorney associated with the account, and the account balance as of December 31, of the preceding year.
- Amend existing rules pertaining to attorney client trust account reporting.
- Change the oath card and update the website and any internal procedures that indicate the need for the seal when an out-of-state judicial officer administers the attorney oath.
- Develop stakeholder engagement process and new rulemaking to establish LRS partnership program.

SB 1476 (BLAKESPEAR) – APPLICABILITY OF POLITICAL REFORM ACT TO THE STATE BAR

Status as of September 9, 2024: Awaiting action by the governor

This bill, sponsored by the State Bar, adds a clear requirement that the State Bar maintain conflict-of-interest codes for its Board of Trustees and Designated Employees that meet the requirements of the Political Reform Act. The bill clarifies that violations of the State Bar's conflict-of-interest codes are violations of law enforceable under the Political Reform Act, and makes it that the enforcement provisions of the Act apply to such violations.

AB 2505 (GABRIEL) – MANDATORY REPORTING OF PRO BONO

Status as of September 9, 2024: Awaiting action by the governor

This bill requires every active licensee, when paying their annual licensing fees, to report to the State Bar the number of hours of pro bono legal services, as defined, provided for the prior calendar year and the number of reduced fee legal services, as defined, performed during the

prior calendar year for a low- income individual, nonprofit organization, or public law library. This information shall be reported through My State Bar Profile (MSBP). The bill authorizes the State Bar to allow licensees to indicate they do not track their hours, or they decline to answer. The bill also indicates categories of attorneys not subject to the reporting requirements.

The State Bar will need to create additional fields in its licensee records management system to allow the reporting of this information, and must ensure this information is retained for historical purposes for at least five years. Due to the need for programming changes amidst the ongoing information technology challenges the State Bar is facing, in addition to the need to create communications to alert licensees to this new requirement, the State Bar plans to implement this new reporting requirement with the 2026 billing cycle.

SB 940 (UMBERG) – STATE BAR CERTIFICATION OF ALTERNATIVE DISPUTE RESOLUTION (ADR) FIRMS, PROVIDERS, AND PRACTITIONERS

Status as of September 9, 2024: Awaiting action by the governor

This bill directs the State Bar to create a voluntary certification program for ADR firms, providers, and practitioners as a method for improving consumer awareness and public protection. The bill provides that the certification program shall include different levels or tiers for certification that award a higher level or tier to those that demonstrate a higher level of commitment to accountability and consumer protection. These tiers are not designed to assess quality of the dispute resolution services. The certification applies to lawyers and non-lawyers alike. The bill authorizes the State Bar to charge fees as necessary for start-up and ongoing support purposes.

The State Bar will need to work with key stakeholders to finalize the parameters and criteria for a tiered certification program. In addition, the mechanics of the certification process, including any needed technology solution, as well as the cost structure, need to be identified and developed.

PREVIOUS ACTION

January 2024 Board of Trustees Meeting, [Adoption of Preliminary 20204 Legislative Priorities and Affirmative Legislative Proposals](#)

March 2024 Board of Trustees Meeting, [Approval of Legislative Reports Required Pursuant to Business and Professions code sections 6086.20 and 6145.1](#)

March 2024 Board of Trustees Meeting, [Update on Legislation and Adoption of Affirmative Legislative Proposals](#)

May 2024 Board of Trustees Meeting, [Discussion and Approval of Current and New 2024 Legislative Priorities and Affirmative Legislative Proposals](#)

FISCAL/PERSONNEL IMPACT

As described above.

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 1. Protect the Public by Strengthening the Attorney Discipline System

- a. 2. Secure additional funding for the attorney discipline system.

Goal 1. Protect the Public by Strengthening the Attorney Discipline System

- d. 1. Align and implement recommendations of the Special Discipline Case Audit Committee and the Ad Hoc Commission on the Discipline System.

Goal 2. Protect the Public by Enhancing Access to and Inclusion in the Legal System

- a. 3. Incentivize and support licensees and law firms to increase the number of pro bono hours provided to underserved groups.

Goal 3. Protect the Public by Regulating the Legal Profession

- d. 1. Implement the Client Trust Account Protection Program.

Goal 4. Protect the Public by Engaging Partners

- d. 1. Collaborate with the legislature and other stakeholders to increase public protection and support the State Bar's mission.

RESOLUTIONS

None

ATTACHMENT LIST

None



The State Bar *of California*

Update on 2023–2024 Legislative Session: Legislation Impacting the State Bar

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Board of Trustees, September 19–20, 2024



Agenda

- Highlights of:
 - AB 3279
 - SB 1476
 - AB 2505
 - SB 940
- Status of Board Adopted Affirmative Legislative Proposals



Key Elements of AB 3279: Fee Related Provisions

- \$77 for maintaining existing operations; \$11 for improving public protection
- Ability to change the license renewal period from traditional Dec 1 – Feb 1 window
- Installment payments for attorney with individual gross income below \$60,478.35
- Earmarking more of the legal services contributions for legal services summer fellowships



Key Elements of AB 3279: Non-Licensing Fee Related Provisions:

- Repayment to GF of \$2 million paid to CSF in 2016/2017
- Redirect receipts from FTB Tax Intercept Program to GF in 2025
- Flexibility that allows the State Bar to create an offer and compromise program for reimbursement owed to CSF (language already exists re: discipline costs) and retain 50% of collections in GF in 2025
- Removal of Board members for cause
- Clarification CBE does not oversee legal programs in non-law schools
- Legislative report on complaints related to disability access issues at bar exam test sites
- Salary increase for State Bar Court judges
- Enhanced reporting by financial institutions about Client Trust Accounts
- Simplification of process re: oath cards signed by out-of-state judges
- Adjustments in the costs for LRS certification; authority for LRS orgs to partner with nonprofit organizations



Other Legislation



SB 1476 (Blakespear) –
Political Reform Act



AB 2505 (Gabriel) –
Mandatory Reporting
of Pro Bono



SB 940 (Umberg) –
Certification of ADR
Providers



Board Adopted Priorities and Legislative Proposals

	Included in AB 3279 or SB 1476?
Licensing fee increase*	✓
Enhanced report by financial institutions about client trust accounts	✓
Applicability of Political Reform Act provisions to the State Bar	✓
Removal of Board members for cause	✓
Ability to change the license renewal period from usual Dec 1 – Feb 1 window	✓
Revision of time for submission of next bar exam studies	✓
Modernize LRS certification	✓
Continuation of earmark of legal services contributions for summer fellowships and increase in the amount earmarked	✓
Technical amendment: correction of timing for 2 reports submitted as part of the ADR	✓
Technical amendment: elimination of obsolete reference related to obligation of State bar to collect fees for the California Lawyers Association	✓
CTAPP – Preserving confidentiality of records in compliance reviews and audits	✓



Board Adopted Priorities and Legislative Proposals

Included in AB
3279 or SB 1476?

Authority to use legal services voluntary contributions more flexibly	X
Continued funding for Homelessness Prevention Grants	X
Clarification CBE does not oversee legal programs in non-law schools	✓
Clarification of statute of limitations to seek judicial review of CSF commission decisions on applications for reimbursement	✓
Amend the process for revocation of a law corporation's State Bar registration	X
Simplification of process re: oath cards signed by out-of-state judges	✓
Use a portion of CSF reserves to support IT modernization and staffing in 2025	✓
Authorize CSF collections to be deposited in the GF*	✓
Permit the State Bar to reduce or waive CSF reimbursements and interest, paving the way for an offer and compromise program	✓



Questions?

