



# The State Bar of California

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## **OPEN SESSION AGENDA ITEM 702 JULY 2021**

**DATE:** July 1, 2021

**TO:** Members, Board of Trustees

**FROM:** Dag MacLeod, Chief of Mission Advancement & Accountability Division

**SUBJECT:** Approval of Additions to 2021 Legislative Priorities

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### **EXECUTIVE SUMMARY**

This agenda item requests that the Board of Trustees approve one addition to the 2021 legislative priorities: a letter on behalf of the entire Board opposing Senate Bill 211 unless modified to restore the licensing fee and remove provisions that restrict the State Bar's ability to collect the fee.

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### **BACKGROUND**

Licensing fees paid by attorneys provide the majority of revenue funding State Bar operations. Every year the licensing fee must be set and authorized by the California State Legislature. Senate Bill 211 (SB 211), introduced in January, is this year's vehicle for approving the 2022 licensing fee.

As amended in April, SB 211 extended the current licensing fee which would have allowed the State Bar to continue operating at its current level. On April 23, the State Bar issued a letter of support to the Chair of the Senate Judiciary Committee expressing support for the bill.

On May 5, SB 211 was amended again, striking the amount of the fee from the bill and prohibiting the State Bar from collecting the licensing fee "unless and until the Senate confirms the appointment of a chief trial counsel" (SB 211 as amended, May 5, 2021, Business and Professions Code section 6140(a)).

## **DISCUSSION**

State Bar staff have met with legislative staff to express our concerns about the amendments to SB 211 introduced on May 5. At this point, however, staff believe that it would be helpful for the Board of Trustees to formally express the State Bar's opposition to the bill unless amended to restore the fee and remove the conditions related to collecting the fee.

## **FISCAL/PERSONNEL IMPACT**

None

## **AMENDMENTS TO RULES OF THE STATE BAR**

None

## **AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL**

None

## **STRATEGIC PLAN GOALS & OBJECTIVES**

None

## **RECOMMENDATIONS**

**Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:**

**RESOLVED**, that the Board of Trustees authorizes State Bar Staff to work with the chair of the Board of Trustees to draft a communication on behalf of the full Board to communicate to the Legislature the State Bar's opposition to SB 211 unless amended to (a) restore the fee at the level approved in 2021 and (b) to remove the conditions imposed on collection of the licensing fee in 2022.

## **ATTACHMENT LIST**

- A. Senate Bill 211 as Amended on May 5, 2021

AMENDED IN SENATE MAY 5, 2021  
AMENDED IN SENATE APRIL 21, 2021  
AMENDED IN SENATE APRIL 14, 2021  
AMENDED IN SENATE MARCH 9, 2021

**SENATE BILL**

**No. 211**

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**Introduced by Senator Umberg**

January 12, 2021

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An act to amend Sections ~~6056 and 6140~~ 6056, 6140, and 6141 of, and to repeal Sections 6011 and 6069.5 of, the Business and Professions Code, relating to attorneys.

LEGISLATIVE COUNSEL'S DIGEST

SB 211, as amended, Umberg. State Bar: board of trustees: report: attorneys' annual license fees: California Lawyers Association.

Existing law, the State Bar Act, provides for the licensure and regulation of attorneys by the State Bar of California, a public corporation. The State Bar is governed by a board of trustees, to consist under the act of no more than 19 members and no fewer than 13 members. The act states that it is the intent of the Legislature that the board transition to a 13-member board, as specified, with the goal of instituting such a board by October 31, 2020.

This bill would delete these provisions on the size of the board of trustees.

Existing law requires the State Bar to assist in the establishment of a private, nonprofit corporation, named the California Lawyers Association. Existing law requires the California Lawyers Association to be governed in accordance with its bylaws and sets forth requirements for the bylaws, including membership of its governing board.

This bill would delete the provision requiring the California Lawyers Association to be governed in accordance with its bylaws and setting forth requirements for its bylaws.

The act requires the State Bar to conduct a review and study regarding errors and omissions insurance for attorneys licensed in this state, including determinations on prescribed topics, and to report its findings to the Supreme Court and the Legislature no later than March 31, 2019.

This bill would delete that study and report requirement.

*Existing law requires the board to appoint a lawyer admitted to practice in California to serve as chief trial counsel, and makes the appointment subject to confirmation by the Senate. Existing law authorizes the chief trial counsel to, among other things, initiate and conduct investigations of all matters affecting or relating to the discipline of the licensees, unlawful practice of law, or unlawful solicitation of business for an attorney at law or law firm.*

Existing law, until January 1, 2022, requires the board to charge an annual license fee for active licensees of up to \$395 for 2021. The act also requires the board to charge an annual license fee for inactive licensees of up to \$97.40 for inactive licensees on and after January 1, 2021.

~~This bill, until January 1, 2023, would require the board to charge an annual license fee of \$395 for active licensees for 2022.~~

*This bill would prohibit the board from charging the annual license fee for active licensees for 2022 and the annual license fee for inactive licensees for 2022 and thereafter unless and until the Senate confirms the appointment of the chief trial counsel, in which case the bill would require the board to charge those annual license fees up to unspecified amounts.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

- 1 SECTION 1. Section 6011 of the Business and Professions
- 2 Code is repealed.
- 3 SEC. 2. Section 6056 of the Business and Professions Code is
- 4 amended to read:
- 5 6056. (a) The State Bar, acting pursuant to Section 6001, shall
- 6 assist the Sections of the State Bar to incorporate as a private,
- 7 nonprofit corporation organized under Section 501(c)(6) of the

1 Internal Revenue Code and shall transfer the functions and  
2 activities of the 16 State Bar Sections and the California Young  
3 Lawyers Association to the new private, nonprofit corporation, to  
4 be called the California Lawyers Association. The California  
5 Lawyers Association shall be a voluntary association, shall not be  
6 a part of the State Bar, and shall not be funded in any way through  
7 mandatory fees collected by the State Bar. The California Lawyers  
8 Association shall have independent contracting authority and full  
9 control of its resources. The California Lawyers Association shall  
10 not be considered a state, local, or other public body for any  
11 purpose, including, but not limited to, the Bagley-Keene Open  
12 Meeting Act (Article 9 (commencing with Section 11120) of  
13 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government  
14 Code) and the California Public Records Act (Chapter 3.5  
15 (commencing with Section 6250) of Division 7 of Title 1 of the  
16 Government Code).

17 (b) The California Lawyers Association shall establish the  
18 criteria for membership in the California Young Lawyers  
19 Association. The California Lawyers Association may change the  
20 name of the California Young Lawyers Association to another  
21 name consistent with the criteria for membership and its mission.

22 (c) The State Bar may assist the California Lawyers Association  
23 in gaining appointment to the American Bar Association (ABA)  
24 House of Delegates, consistent with the California Lawyers  
25 Association's mission and subject to the consent of the ABA.

26 (d) The State Bar shall support the California Lawyers  
27 Association's efforts to partner with the Continuing Education of  
28 the Bar (CEB), subject to agreement by the University of  
29 California.

30 (e) The State Bar of California shall ensure that State Bar staff  
31 who support the sections, as of September 15, 2017, are reassigned  
32 to other comparable positions within the State Bar.

33 (f) The Sections of the State Bar or the California Lawyers  
34 Association and the State Bar shall enter into a memorandum of  
35 understanding regarding the terms of separation of the Sections of  
36 the State Bar from the State Bar and mandatory duties of the  
37 California Lawyers Association, including a requirement to provide  
38 all of the following:

39 (1) Low- and no-cost mandatory continuing legal education  
40 (MCLE).

1 (2) Expertise and information to the State Bar, as requested.

2 (3) Educational programs and materials to the licensees of the  
3 State Bar and the public.

4 (g) The State Bar of California shall assist the California  
5 Lawyers Association in meeting the association's requirement to  
6 provide low- and no-cost MCLE by the inclusion on the State Bar's  
7 ~~Internet Web site~~ *internet website* of easily accessible links to the  
8 low- and no-cost MCLE provided by the California Lawyers  
9 Association.

10 SEC. 3. Section 6069.5 of the Business and Professions Code  
11 is repealed.

12 SEC. 4. Section 6140 of the Business and Professions Code is  
13 amended to read:

14 6140. (a) The board shall *not charge an annual license fee for*  
15 *active licensees for 2022 unless and until the Senate confirms the*  
16 *appointment of the chief trial counsel, in which case the board*  
17 *shall fix the annual license fee for active licensees for 2022 at a*  
18 *sum not exceeding three hundred ninety-five dollars (\$395).* \_\_\_\_.

19 (b) The annual license fee for active licensees is payable on or  
20 before the first day of February of each ~~year~~ *year or 30 days after*  
21 *the date the Senate confirms the appointment of the chief trial*  
22 *counsel, whichever is later.* If the board finds it appropriate and  
23 feasible, it may provide by rule for payment of fees on an  
24 installment basis with interest, by credit card, or other means, and  
25 may charge licensees choosing any alternative method of payment  
26 an additional fee to defray costs incurred by that election.

27 (c) This section shall remain in effect only until January 1, 2023,  
28 and as of that date is repealed.

29 SEC. 5. Section 6141 of the Business and Professions Code is  
30 amended to read:

31 6141. (a) On January 1, ~~2021~~, 2022, and thereafter, the board  
32 shall *not charge an annual license fee for inactive licensees unless*  
33 *and until the Senate confirms the appointment of the chief trial*  
34 *counsel, in which case the board shall fix the annual license fee*  
35 *for inactive licensees at a sum not exceeding ninety-seven dollars*  
36 *and forty cents (\$97.40).* \_\_\_\_\_. The annual license fee for inactive  
37 licensees is payable on or before the first day of February of each  
38 ~~year~~ *year or 30 days after the date the Senate confirms the*  
39 *appointment of the chief trial counsel, whichever is later.*

- 1 (b) An inactive licensee shall not be required to pay the annual
- 2 license fee for inactive licensees for any calendar year following
- 3 the calendar year in which the licensee attains 70 years of age.

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