



July 3, 2019

Hon. Hannah-Beth Jackson, Chair
Senate Judiciary Committee
State Capitol, Room 5080
Sacramento, CA 95814

Hon. Mark Stone, Chair
Assembly Judiciary Committee
State Capitol, Room 3146
Sacramento, CA 94249

Re: SB 176 (Jackson), as amended May 22, 2019

Dear Senator Jackson and Assembly Member Stone:

As the Senate Judiciary Committee and Assembly Judiciary Committee are well aware, the California Lawyers Association (CLA) was created as a result of Senate Bill 36, the annual State Bar fee bill of 2017. Now, a year and a half after its establishment, CLA greatly appreciates the opportunity to offer its perspective on this year's fee bill, in particular the proposed State Bar licensing fee increase.

CLA has close to 100,000 members. This includes about 45,000 members of the California Young Lawyers Association (CYLA) who do not need to join CLA separately but are members automatically as lawyers in California practicing eight or fewer years. Our members represent the vast diversity of California's legal community and the various areas of law practiced throughout the state. We continue to expand the scope of our activities, consistent with our mission of promoting excellence, diversity and inclusion in the legal profession and fairness in the administration of justice and the rule of law.

We recognize that the State Bar licensing fee has not increased in over 20 years and that economic realities may justify an increase of some amount. At the same time, we urge a cautious approach, with a sharp focus on the State Bar's current use of revenue derived from licensing fees and future use of revenue that may be derived as a result of any increase to the licensing fee.

By its nature, a fee increase will necessarily have an impact on those required to pay the fee. The immediate and direct impact will be on the attorneys, who will be required to make a greater

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annual payment in order to maintain their licenses. That impact may fall disproportionately on certain attorneys, such as members of CYLA and solo and small firm practitioners.

Beyond the direct impact, there may be indirect impacts on those who are least able to afford necessary legal services. For example, any increase in the amount attorneys are required to pay may be accompanied by a decrease in the amount that attorneys voluntarily pay toward certain programs, including those that increase access to justice. Thus, optional donations to help close the justice gap and to fund legal services—both appearing on the annual State Bar fee statement at the same time attorneys pay their mandatory licensing fee—may decrease.

Certain local non-profit bar associations share our concern about the impact of a fee increase on access to justice, and believe it is likely that some members may drop their membership in these associations if the licensing fee is increased. This could result in decreased participation in important educational programming and a decrease in funding for valuable services these bar associations provide to members of the public, including pro bono and modest means programs, lawyer referral services, indigent criminal defense panels, and foundations that donate to local legal aid programs. With decreased funding, these and other services may need to be cut back. Finally, there would likely be an adverse impact on funding for our ongoing programs aimed at ensuring the highest level of attorney ethics and competence in specific practice areas, thereby protecting the public, and partner-based initiatives we are developing in the areas of access to justice, pro bono, diversity, equity and inclusion, and civics engagement.

The State Bar plays a crucial role in protecting the public. CLA—like the State Bar—is interested in an adequately funded and well-functioning attorney discipline system. The question presented here is the actual amount of funding the State Bar needs to run its discipline system and otherwise function efficiently and effectively.

We have carefully analyzed the two recent reports on the State Bar, the April 30, 2019 report of the California State Auditor and the June 26, 2019 report of the Legislative Analyst's Office (LAO). It is our belief that any increase in the licensing fee for 2020 should not exceed the "low" option contained in the LAO report. Although we recognize, as the LAO report notes, that the "low" option demonstrates a "bare-bones" assessment, the LAO report also notes, on Page 23, that this would cover "the most immediate and necessary costs." We are, however, sensitive to the impact of this option on the State Bar workforce and are open to engaging in a discussion about addressing these issues.

Assuming the Legislature authorizes the collection of an increased licensing fee for 2020, we believe the increased fee should be subject to further evaluation in connection with a 2021 State Bar fee bill. Thus, if there is to be an increase in the licensing fee for 2020, there should also be some associated performance standards, measurements, or benchmarks included in this bill, along with a required accountability report from the State Bar addressing planned and actual spending. This report could be used to assist in evaluating the impact of any fee increase

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authorized for 2020 and potentially provide justification for an adjustment to the amount of the licensing fee in 2021.

We recognize that the State Bar is already subject to numerous reporting and audit requirements, and have no interest in unnecessarily diverting resources away from the State Bar's mission, toward additional record-keeping and reporting requirements. We would, however, like to see measures in place to ensure that funds the State Bar receives as a result of any fee increase are spent in a way that most effectively furthers its mission. Our goals are, therefore, aligned with these comments on page 24 of the LAO Report:

Consider Performance and Outcome Measures for Any New Resources Provided. The Legislature currently receives reports on certain State Bar activities. For example, the State Bar is required to provide an annual discipline report that provides key outcome measures for disciplinary workload. The Legislature could consider modifying these established requirements as well as implementing new outcome and performance measures that reflect the Legislature's intended expectations for any funding provided. This will help the Legislature monitor how the funding is used and any effect the new funding has upon State Bar operations (such as the effect any new OCTC positions has upon disciplinary disposition times). This would also help the Legislature evaluate whether legislative expectations were actually met, determine whether future policy changes are needed, and make decisions on appropriate funding and service levels in the future.

We are open to conferring with the Legislature and other key stakeholders about the exact language of any accountability provisions.

Finally, we are interested in exploring ways to potentially lower State Bar licensing fees in the future, consistent with this assessment on page 2 of the State Auditor's Report:

To potentially mitigate proposed fee increases, we reviewed State Bar's operations for opportunities to increase its revenue, which may allow it to decrease the fees that attorneys must pay. We hired a certified real estate appraiser to evaluate State Bar's real estate holdings in San Francisco and Los Angeles. Our appraiser found that State Bar has not maximized lease revenue from its San Francisco building. State Bar has entered into leases that are below market value, and it has not leased all available space in the building. We also considered efficiencies—such as the agency wide performance measures and goals that State Bar has recently developed—that could improve its performance and eventually translate to reduced costs and corresponding reductions in licensing fees.

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We appreciate your consideration of our comments. If you have any questions, please feel free to contact me at (619) 239-8131 or HRosing@Klinedinstlaw.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Linn Rosing". The signature is fluid and cursive, with the first name "Heather" being the most prominent.

Heather Linn Rosing, President
California Lawyers Association

cc: Ona Dosunmu, Executive Director, California Lawyers Association
Members, Board of Representatives, California Lawyers Association