



The State Bar of California

It Will Need a Mandatory Licensing Fee Increase in 2024 to Support Its Operations

Background

State law charges the State Bar of California (State Bar) with protecting the public through the licensure and regulation of attorneys. To meet this responsibility, the State Bar oversees 16 programs that address aspects of its mission. It supports most of its programs primarily through general fund revenue, the vast majority of which comes from mandatory licensing fees that attorneys must pay each year.

One of the State Bar's most important responsibilities is investigating and addressing attorney misconduct. When certain staff have conflicts of interest with respect to attorney disciplinary matters, Rule 2201 of the State Bar's Rules of Procedure requires it to recuse itself and refer the attorney disciplinary cases for which there is a conflict to a special deputy trial counsel administrator (administrator). The administrator oversees special deputy trial counsels (external investigators) who then conduct the investigations and any prosecutions.

Key Findings

- » The State Bar will need an increase in its mandatory licensing fees in fiscal year 2024.
 - The State Bar has often operated its general fund at a deficit in recent years. Its administrative and personnel costs have increased during this period and will continue to do so.
 - The State Bar could take steps to minimize its need for future licensing fee increases by raising the fees it charges for certain services it provides and by selling a building it owns, thus reducing the maintenance costs it must pay.
- » The State Bar should improve its process for administering external disciplinary cases.
 - The State Bar's case management system contains multiple data errors related to its external disciplinary cases. These data errors limit the State Bar's ability to track the timeliness of its administration of these cases.
 - Although the administrator developed her own policy directive to identify potential conflicts of interest involving external investigators, the State Bar has not formalized this process. Consequently, it lacks assurance that its current and future administrators will continue to identify such conflicts.

Key Recommendations

The Legislature should do the following:

- » Set the maximum annual licensing fee that the State Bar may charge for 2024 to \$414 for actively licensed attorneys and \$103.40 for inactive licensees. However, before the Legislature finalizes the maximum annual licensing fee amounts for 2024, it should request that the State Bar provide it with an itemized, program-by-program listing of the mandatory licensing fee revenue necessary to fund its operations in 2024.

The State Bar should do the following:

- » By October 2023, the State Bar should identify any service fees that do not fully cover its costs of providing the services. The State Bar should increase the fees it has identified to the amount necessary to recoup its costs unless it determines that doing so would limit the public's access to the services.
- » The State Bar should immediately review the accuracy of the data in its case management system related to its external disciplinary cases and correct any errors. Unless required to do so, it should not report data from the system to the public and the Legislature until it verifies the data's accuracy.
- » The State Bar should, by October 2023, formalize the administrator's process for identifying her own and any external investigators' conflicts of interest related to external disciplinary cases.

State Bar Perspective

The State Bar agreed with all of our recommendations and indicated its willingness to work with the Legislature to implement them.