



Bill Analysis

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Judiciary

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Related Bills: See Legislative
History

Bill Number: AB 3362

Amended: May 5, 2020 and
May 13, 2020

SUBJECT

State Bar Nontax Debt Collection – Client Security Fund

SUMMARY

This bill, under the Business and Professions Code (BPC), would make several procedural changes related to the Bagley-Keene Open Meeting Act, and make several changes to licensee investigative and disciplinary actions related to the State Bar Act. In addition, this bill, under the Administration of Franchise and Income Tax Law (AFITL), would require the Franchise Tax Board (FTB) to collect monetary sanctions and costs related to the State Bar of California's Client Security Fund (Fund) reimbursement provisions, as specified.

This analysis only addresses the provisions of the bill that impact the department's programs and operations.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The May 5, 2020, amendments, amongst other things, made procedural changes to the BPC and added provisions to the bill related to the AFITL as discussed in this analysis. The May 13, 2020, amendments added an additional BCP code section reference in the AFITL.

This is the department's first analysis of the bill.

REASON FOR THE BILL

The reason for the bill is to ensure a proper focus on attorney regulation and public protection.

ANALYSIS

This bill, under the AFITL, would allow the FTB to collect delinquent monetary sanctions and costs due to the Fund in addition to reimbursed amounts that FTB is already authorized to collect.

Effective/Operative Date

This bill would become effective and operative January 1, 2021.

Federal/State Law

Federal Law

No provision comparable in federal law.

State Law

Under current state law, fines, state or local penalties, bail, forfeitures, restitution fines, restitution orders, or any other amount imposed by a superior, juvenile, Supreme Court of the State of California, or a governmental entity in California, totaling no less than \$100, and delinquent for 90 days or more, can be referred by the courts, the State Bar, or governmental entity to the FTB for collection.

Current state law authorizes the FTB to use administrative collection tools to collect delinquent tax and nontax debt liabilities. Collection actions include, but are not limited to, levying bank accounts and garnishing wages.

Implementation Considerations

None noted.

Technical Considerations

None noted.

Policy Concerns

None noted.

LEGISLATIVE HISTORY

SB 144 (Mitchell, et al., 2019/2020) would, under the BPC, Government Code, Vehicle Code, Penal Code, and Welfare and Institutions Code, among other changes, eliminate a number of administrative fees and costs imposed on a person related to involvement in the criminal justice system and would specify that the unpaid balance

of specified fees or costs eliminated by these provisions be unenforceable and uncollectable. SB 144 is currently in the committee process.

AB 3249 (Committee on Judiciary, Chapter 659, Statutes of 2018) allowed amounts imposed by the Supreme Court of the State of California for certain amounts due to the State Bar as a debt type that can be referred to the FTB Court Ordered Debt collection program.

SB 1210 (Lieu, Chapter 762, Statutes of 2012) authorized the referral of delinquent fines, state and local penalties, forfeitures, restitution fines and orders, and other amounts imposed by a juvenile court to the FTB for collection.

SB 647 (Committee on Judiciary, Chapter 208, Statutes of 2011) authorized the FTB to collect specified legal costs relating to an order of the juvenile court. Specified legal costs include the costs for counsel appointed to represent parents or minors pursuant to dependency proceedings.

PROGRAM BACKGROUND

Client Security Fund

The Fund was established by Bar-sponsored legislation, which became effective on March 4, 1972, and is administered by the Client Security Fund Commission (Commission). The Fund reimburses people who have lost money or property because of the dishonest conduct of an attorney. The State Bar manages the Fund, which is entirely paid for by California attorneys.

To qualify for reimbursement, an applicant must demonstrate that the attorney received money or property from the applicant or settlement or other funds that were owed to the applicant and then acted dishonestly, as defined in the Fund's rules. Generally, the attorney must have been disciplined, disbarred, or resigned from the State Bar, or be deceased. Each application is evaluated individually to determine if it meets these and other Fund rules. If the loss qualifies, the Fund can reimburse the amount of the loss the applicant suffered, up to a maximum of \$100,000.

After payment from the Fund to an injured party, the Commission seeks reimbursement of the Fund payment, including interest and associated costs, as specified, from the attorney that caused the payment.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

ECONOMIC IMPACT

Revenue Estimate

This bill as amended May 5, 2020 and May 13, 2020, would not impact state income or franchise tax revenue.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE STAFF CONTACT

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