



Bill Analysis

Author: Committee on Bill Number: AB 3362
Judiciary

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

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

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 the 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 or Juvenile court, the 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 the 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.

LEGISLATIVE HISTORY

SB 144 (Mitchell, et al., 2019/2020) would have, under the BPC, Government Code, Vehicle Code, Penal Code, and Welfare and Institutions Code, among other changes, eliminated a number of administrative fees and costs imposed on a person related to involvement in the criminal justice system and would have specified that the unpaid balance of specified fees or costs eliminated by these provisions are unenforceable and uncollectable. SB 144 failed to pass out of the Assembly before the constitutional deadline.

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

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT*Revenue Estimate*

This bill 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.

VOTES

Location	Date	Yes Votes	No Votes
Concurrence	August 30, 2020	75	0
Senate Floor	August 28, 2020	39	0
Assembly Floor	June 8, 2020	76	0

LEGISLATIVE STAFF CONTACT

Yolanda Richardson
Agency Secretary, Gov Ops
Work (916) 651-9011

Christina Spagnoli
Legislative Deputy, Gov Ops
Work (916) 651-9373

Selvi Stanislaus
Executive Officer, FTB
Work (916) 845-4543

Annette Kunze
Legislative Director, FTB
Work (916) 845-6333