

223.2

STATE BAR OF CALIFORNIA

AUGUST 1974

Joint Legislative Audit Committee

GOVERNMENT CODE: SECTIONS 10500-10504

California Legislature

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August 13, 1974

The Honorable Speaker of the Assembly
The Honorable President of the Senate
The Honorable Members of the Senate and the
Assembly of the Legislature of California

Members:

Transmitted herewith is the Auditor General's second report pertaining to the operations of the State Bar of California. The State Bar has requested the Legislature for authority to increase the effective bar membership fee for attorneys in practice five years or over from \$100 to a maximum of \$145 as of January 1, 1976.

The Auditor General found in his first report dated June 19, 1974, that the State Bar has not developed specific workload statistics and standards needed to evaluate its current operations and to project its future needs. The Auditor General therefore recommended that the Legislature disapprove the request of the State Bar of California to increase fees until the State Bar provides a justification for staff increases and a specific written analysis of staffing needs based on workload statistics and standards.

Based on the Auditor General's second review, the above finding and recommendation are still appropriate, since the workload statistics and standards have not been developed, and since the justification for staff increases has not been provided by the State Bar.

The State Bar has proposed an addition of 42,985 square feet of office space to its San Francisco office building at an estimated cost of over \$2 million. Based on the combined existing space in the San Francisco and Los Angeles office buildings owned by the State Bar and based on the existing staff and projected needs through 1980, the State Bar's proposed addition of 42,985 square feet to the San Francisco office building is unnecessary. Further, existing rental facilities in San Francisco, providing office

The Honorable Members of the Legislature
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space to 25 employees at an annual rental cost of \$31,000, is unnecessary. The Los Angeles office building is not fully occupied and can accommodate the State Bar's projected staff needs through 1980.

Pursuant to Section 6140 of the Business and Professions Code, the State Bar is charging its active members a building fund fee of \$10 annually which is not needed since the additional office space in San Francisco is unnecessary.

The Auditor General has recommended that the State Bar (1) defer its proposed addition to its San Francisco office building, (2) locate future additional staff at its Los Angeles office building, and (3) eliminate its San Francisco rental facilities and transfer 25 current positions to its Los Angeles office building. The Auditor General has further recommended that the Legislature immediately terminate the State Bar's authority to charge its members a \$10 annual building fund fee.

Administrative and clerical duties performed by State Bar attorneys could be performed by legal secretaries or administrative assistants. For example, one attorney serves exclusively as the administrative assistant to the Secretary of the State Bar. The duties performed are strictly administrative and clerical in nature.

The Auditor General has concluded that the duties of five attorneys employed by the State Bar could be adequately performed by five persons who are not attorneys, such as legal secretaries or administrative assistants. These latter positions, considering salaries and fringe benefits, would result in an approximate annual reduction in expenditures of \$65,000 to the State Bar.

The Auditor General has recommended that the State Bar replace, through attrition, five attorneys with five legal secretaries or administrative assistants.

Respectfully submitted,



VINCENT THOMAS, Chairman
Joint Legislative Audit Committee

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SUMMARY OF FINDINGS,
RECOMMENDATIONS AND SAVINGS

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FINDING

The State Bar has not developed specific workload statistics and standards needed to evaluate its current operations and to project its future needs.

3

RECOMMENDATION

We recommend that the Legislature disapprove the request of the State Bar of California to increase fees until the State Bar provides a justification for staff increases in a specific written analysis of staffing needs based on workload statistics and standards.

4

FINDING

The State Bar's proposed addition of 42,985 square feet of office space in its San Francisco office building, at an estimated cost of \$2 million, is unnecessary.

8

RECOMMENDATIONS

We recommend that the State Bar (1) defer the proposed addition to its San Francisco office building, (2) locate future additional staff at its Los Angeles office building, and (3) eliminate its San Francisco rental facilities and transfer 25 current positions to its Los Angeles office building.

10

We further recommend that the Legislature immediately terminate the State Bar's authority to charge its members an annual \$10 building fund fee.

10

SAVINGS

Implementation of these recommendations will result in a savings to the State Bar of over \$2 million, and will result in a reduction of fees amounting to \$10 paid by active State Bar members.

10

FINDING

Administrative and clerical duties performed by State Bar attorneys could be performed by legal secretaries or administrative assistants at an annual reduction in expenditures of approximately \$65,000. 11

RECOMMENDATION

We recommend that the State Bar of California replace, through attrition, five attorneys with five legal secretaries or administrative assistants. 15

SAVINGS

Implementation of this recommendation will result in an annual reduction in expenditures of approximately \$65,000. 15

INTRODUCTION

In response to a legislative request, we have reviewed the operations of the State Bar of California. This is the second report issued by this Office on such operations.

The State Bar has requested the Legislature for authority to increase the bar membership fee for attorneys in practice five years and over from \$100 per year (\$80 basic fee plus \$10 building fund fee plus \$10 client security fund fee) to a maximum of \$145 per year (\$125 basic fee plus \$10 building fund fee plus \$10 client security fund fee) effective January 1, 1976. Similar fee increases have been requested for attorneys in practice for less than five years. The purpose of the fee increase is to finance additional staff members and to meet anticipated inflationary increases in costs. About half of the proposed fee increase is for additional staff and related costs and half is for an anticipated five percent per year inflationary increase in price levels. Permanent staff of 153 as of June 1, 1974 would be increased to 222 by 1980, according to State Bar projections.

We found in our first report of June 19, 1974 that:

"The state bar has not developed specific workload statistics and standards needed to evaluate its current operations and to project its future needs."

Therefore we recommended that:

"...the Legislature disapprove the request of the State Bar of California to increase fees until the State Bar provides a justification for staff increases in a specific written analysis of staffing needs based on workload statistics and standards."

Subsequent to our second review of the State Bar operations, the above finding and recommendation are still appropriate, since the workload statistics and standards have not been developed, and since the justification for staff increases has not been provided by the State Bar.

Additional findings and recommendations are contained in this report.

BACKGROUND

State Bar membership is compulsory for all attorneys admitted to practice in California. As of May 20, 1974, there were 40,700 active members.

The State Bar is organized as part of the Judicial Branch of government and is subject to the authority of the State Supreme Court in certain matters. Its primary function is to serve as the professional regulatory agency for the legal profession in California. As such it handles the examination and licensing of attorneys. It also investigates attorneys accused of professional misconduct and in appropriate cases can either publicly or privately censure the attorney or recommend suspension or disbarment to the State Supreme Court.

Expenditures from the State Bar General Fund are financed primarily from membership fees and examination fees. Separate fees are assessed for a building fund and a client security fund. The bar examinations are self-supporting with the bar examination fees set in the amount needed to cover the cost of the examination process.

The following is a breakdown of the State Bar's actual general fund expenditures, exclusive of the self supporting bar examination program, for calendar year 1973:

State Bar of California
 Actual 1973 Calendar Year
 General Fund Expenditures
Exclusive of Bar Examiners' Expenditures

| | <u>Amount</u> | <u>Percent Of Total</u> |
|---|--------------------|-----------------------------|
| I. General Administration | \$ 562,945 | 22.5 |
| II. Regulatory | 1,114,273 | 44.6 |
| III. Advocacy (representing the interests of the legal profession before the Legislature, and studying and proposing changes in the legal system and administration of justice) | 400,428 | 16.0 |
| IV. Publications and Information | 285,204 | 11.4 |
| V. Other | <u>137,820</u> | <u>5.5</u> |
| Total | <u>\$2,500,670</u> | <u>100.0</u> |

The State Bar was established by Article 6, Section 9 of the State Constitution which provides that:

"The State Bar of California is a public corporation. Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a judge of a court of record."

The powers, duties and form of organization of the State Bar are set forth in Section 6000 et seq. of the Business and Professions Code, which also set forth:

- The requirements for admission to the practice of law
- The authority of the State Bar's board of governors and the courts in administering discipline, and

- Certain acts relating to the practice of law for which criminal sanctions apply or for which an attorney may be subject to professional discipline.

Pursuant to its statutory rule-making authority, the Board of Governors of the State Bar has prescribed additional requirements for admission to the legal profession and additional regulations regarding the conduct of attorneys. Regulations regarding the conduct of attorneys are submitted to the Supreme Court for approval.

The State Bar is governed by a 15-member Board of Governors elected from various districts in the state by the active bar members maintaining their law office in the particular district. Five governors are elected each year; the term of office is three years. The Board of Governors selects each year from among its members a president, four vice presidents and a treasurer. The board also appoints a secretary who serves as the chief administrative officer of the State Bar.

FINDINGS

THE STATE BAR'S PROPOSED ADDITION OF
42,985 SQUARE FEET OF OFFICE SPACE IN ITS
SAN FRANCISCO OFFICE BUILDING, AT AN ESTIMATED
COST OF \$2 MILLION, IS UNNECESSARY.

The State Bar of California owns an office building in San Francisco and another in Los Angeles. In addition, it rents office space in San Francisco for 25 full-time employees at an annual cost of \$31,000. As of June 1, 1974, the State Bar had a full-time staff of 148 in San Francisco and Los Angeles, including the 25 employees in rental facilities. Based on a standard of 220 square feet per employee, the combined existing space in the two buildings which the State Bar owns could accommodate 230 full-time employees. The 230 employees represent 82 employees in excess of the 148 existing employees and 14 employees in excess of the State Bar's projection of its staff needs of 216 through 1980.

The 220 square feet per employee standard is based on the actual number of net usable square feet per employee in the State Bar's San Francisco office building. Individual office space within this facility is ample and the 220 square feet per employee includes a large board room and a hearing room.

While the space is ample for existing employees in the San Francisco office building, this facility is generally fully occupied. The Los Angeles

facility, which includes a five story addition completed in 1973, is not fully occupied, and it is this facility which can accommodate the State Bar's projected staff needs through 1980. In fact, the majority of membership and workload is in the Los Angeles area.

The 220 square feet per employee standard is 90 square feet in excess of the state standard of 130 square feet per employee. As of June 1, 1974, the State Bar had a part-time staff of 34 employees and therefore, even substantial increases to this part-time staff could be accommodated by the existing office space.

The State Bar now intends to build an addition to its San Francisco office building, consisting of 42,985 square feet at an estimated cost of over \$2 million.

The proposed addition would increase the combined existing space of the San Francisco and Los Angeles buildings by approximately 75 percent. Based on 220 square feet per employee, this proposed combined space would then accommodate 400 full-time employees, or 184 employees in excess of the State Bar's projection of its 1980 staff needs of 216.

Based on the combined existing space in the San Francisco and Los Angeles office buildings owned by the State Bar, and based on the existing staff and projected staff needs through 1980, the State Bar's proposed addition of 42,985 square feet to the San Francisco office building is unnecessary. Further, the existing rental facilities in San Francisco are unnecessary.

Section 6140 of the Business and Professions Code authorized the State Bar to charge its active members up to \$10 annually between 1973 and 1982 for a building fund to be used to expand State Bar facilities. This building fund fee of \$10 is currently being charged to State Bar members. Since the expanded office space in San Francisco will be unnecessary through at least 1980, the \$10 building fund fee is not now needed.

RECOMMENDATIONS

We recommend that the State Bar (1) defer the proposed addition to its San Francisco office building, (2) locate future additional staff at its Los Angeles office building, and (3) eliminate its San Francisco rental facilities and transfer 25 current positions to its Los Angeles office building.

We further recommend that the Legislature immediately terminate the State Bar's authority to charge its members an annual \$10 building fund fee.

SAVINGS

Implementation of these recommendations will result in a savings to the State Bar of over \$2 million, and will result in a reduction of fees amounting to \$10 paid by active State Bar members.

ADMINISTRATIVE AND CLERICAL DUTIES PERFORMED
BY STATE BAR ATTORNEYS COULD BE PERFORMED BY
LEGAL SECRETARIES OR ADMINISTRATIVE ASSISTANTS
AT AN ANNUAL REDUCTION IN EXPENDITURES OF
APPROXIMATELY \$65,000.

Our review disclosed that the legal duties of nine staff attorneys of the State Bar could be handled by four attorneys, and their non-legal duties could be assigned to five legal secretaries or administrative assistants at an annual salary and fringe benefit expenditure reduction of approximately \$65,000.

As of June 1, 1974, the State Bar had a staff consisting of 47 attorneys and 106 non-attorneys in San Francisco, Los Angeles, and Sacramento. The following table shows the functional areas to which attorneys are assigned:

State Bar Attorney And
Non-Attorney Staff
June 1974

| | <u>Number Of Attorneys</u> | <u>Number Of Non-Attorneys</u> |
|--------------------------------|--------------------------------|------------------------------------|
| General Counsel and Discipline | 24 | 43 |
| Advocacy | 8 | 9 |
| General Administration | 6 | 27 |
| Licensing Attorneys | 5 | 20 |
| Other | <u>4</u> | <u>7</u> |
| Total | <u>47</u> | <u>106</u> |

Following are examples of the use of attorneys performing administrative and clerical duties in areas where legal expertise is not required:

1. Secretary to Board of Governors

Approximately 80 percent of one staff attorney's time is spent performing clerical and administrative duties for the Board of Governors. She collates and schedules items for the Board of Governors agenda, takes minutes at board meetings, and checks with department heads regarding the status of matters referred by the board. The remaining 20 percent of her time is spent summarizing and processing committee reports for submission to the Board of Governors.

2. Court Clerks in Disciplinary Hearings

Approximately 80 percent of two other staff attorneys' time is spent as court clerks for State Bar disciplinary proceedings. These two attorneys schedule the availability of the volunteer hearing officers, defense, prosecution, and hearing rooms for all State Bar disciplinary hearings. Once a case is completed, these two attorneys inform the appropriate parties of the hearing officer's decision. In judicial proceedings, court clerks perform similar tasks without the need for attorney backgrounds. Approximately 20 percent of their time requires legal expertise.

3. Administrative Assistant to Secretary of the State Bar

Another State Bar staff attorney acts exclusively as an administrative assistant to the Secretary of the State Bar. This assistant is responsible for answering relatively routine

correspondence, processing applications for changes in membership status, and various other administrative duties.

4. Legal Specialization and Bar Examiners

Only about one-third of the time spent by the Legal Specialization Division's two staff attorneys requires their legal expertise in the development of examinations and educational programs, and in deciding appeals of examiners. Similar legal tasks require the equivalent of about two and one half of the three staff attorneys assigned to the Bar Examiners. Two-thirds of the time of the two attorneys assigned to the Legal Specialization Division and the equivalent of one-half an attorney in the Bar Examiners is spent on administrative tasks not requiring attorney expertise: supervising clerical staff, preparing agendas for and attending committee meetings, preparing statistical reports, answering correspondence, and developing budgets.

The table on the following page is based on the above examples and shows the savings available to the State Bar by using less costly personnel in place of attorneys now performing primarily administrative and clerical duties.

Annual Reduction in Expenditures
Resulting From Using Legal Secretaries
Or Administrative Assistants In Place
Of Attorneys Now Performing Primarily
Administrative and Clerical Tasks

| <u>Number of Positions And Description</u> | <u>Salaries And Fringe Benefits Of Attorneys</u> | <u>Salaries And Fringe Benefits Of Legal Secre- taries or Administrative Assistants</u> | <u>Equivalent Positions Of Time Not Requiring Attorneys</u> | <u>Annual Reduction In Salary And Fringe Benefit Expenditures</u> |
|--|--|---|---|---|
| Secretary to Board of Governors | 1 \$ 30,254 | \$10,758 | .8 | \$15,597 |
| Court Clerks in Disci- plinary Hearings | 2 43,402 | 21,516 | 1.6 | 17,509 |
| Administrative Assist- and to the Secretary of the State Bar | 1 14,797 | 10,758 | 1.0 | 4,039 |
| Legal Specialization and Bar Examiners | <u>5</u> 131,109 | 53,790 | <u>1.8</u> | <u>27,835</u> |
| Totals | <u>9</u> | | <u>5.2</u> | <u>\$64,980</u> |

We conclude that the duties of five attorneys could be adequately performed by five persons who are not attorneys, such as legal secretaries or administrative assistants at an annual reduction in expenditures of approximately \$65,000.

RECOMMENDATION

We recommend that the State Bar of California replace, through attrition, five attorneys with five legal secretaries or administrative assistants.

SAVINGS

Implementation of this recommendation will result in an annual reduction in expenditures of approximately \$65,000.

SUMMARY OF COMMENTS OF THE PRESIDENT
AND PRESIDENT-ELECT OF THE BOARD OF GOVERNORS
OF THE STATE BAR OF CALIFORNIA

1. While there is not one piece of paper to provide specific workload statistics and standards to document current and future staff needs, such documentation could be developed. It is recognized that the present statistical records are not in a format to adequately support a conclusion as to exactly how many more staff members are needed for the State Bar but since the State Bar fees are at their present maximum ceiling, it would appear imprudent for this ceiling to remain in view of inflationary forces and other factors. Therefore, it would appear appropriate for the Legislature to raise this ceiling with the understanding that the State Bar will work on developing such workload statistics and standards if the Legislature feels that procedure is necessary. Such statistics and standards are not essential since an evaluation as to staff needs can be made without them. In private law practice, workload statistics and standards are not generally utilized to determine staffing needs.

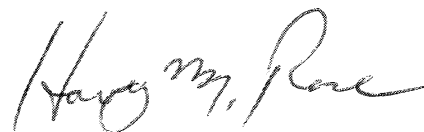
2. If the Legislature disapproves the pending request of the State Bar to increase membership fees, there will be no apparatus to fix and collect additional fees until calendar year 1977. [Counsel for the Office of the Auditor General is of the opinion (based upon Hersh v. State Bar (1972) of Cal. 3d 241, at 246) that legislation could be drafted and enacted by September 30, 1975 which, with or without an urgency clause, would authorize a basic membership fee increase effective January 1, 1976.]

Office of the Auditor General

3. Functions pertaining to disciplinary matters, judicial council matters and bar examiners matters should be handled at the San Francisco office. In general it would be more beneficial and convenient and better supervision could be provided.

The Board of Governors made a policy decision after careful consideration including consideration of various alternates that any expansion of office space should be additions to the San Francisco office building. While it is possible that future expansion could be effected in Los Angeles, there would be more advantages for effecting this expansion in San Francisco than in Los Angeles. Further, it should also be noted that the space needs of the State Bar are somewhat increased because of voluntary help as well as outside citizens and organizations utilizing the State Bar's facilities. Therefore, a consideration of space standards should take these matters into consideration.

4. If the secretary to the Board of Governors were not an attorney, the board itself would have to spend additional time on various matters. However, the board will review the duties of its staff in order to evaluate whether some of its attorneys could be replaced by legal secretaries or administrative assistants.



Harvey M. Rose
Auditor General

Date: August 8, 1974

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