

May 30, 2016

Assemblymember Mark Stone  
Chair, Judiciary Committee  
Members, Judiciary Committee  
1020 N Street, Room 104  
Sacramento, CA 95814

Re: **FLOOR ALERT**  
**A.B. 2878 (State Bar Fee Bill): Additional Amendments Required**

Honorable Chair and Committee Members:

**INTRODUCTION.** We have reviewed the amendments to the State Bar's annual fee bill made in the Assembly on May 27, 2016, and which are expected to be presented during a Floor Session this week. With respect, we think they fall short of what is needed. Accordingly, we write to again encourage you to achieve meaningful reform of the Bar in this year's fee bill by either making additional amendments to decouple the State Bar and adopt the reforms we have proposed or making it clear that you will not accept any legislation that does not contain such language.

**INSUFFICIENT REFORM OF A BROKEN STRUCTURE.** While the amendments proposed pursue some governance reform by eliminating elected Board members, reflecting one of our earlier recommendations, they will not lead to any significant change in the operation of this increasingly dysfunctional organization. The bipolar nature of the current State Bar structure prevents the organization from serving either the people of California or its attorneys well. The discipline system that is supposed to serve the public has not received the oversight it needs for years (as evidenced by multiple State Audits), and the attorneys of this State question what value they receive from the dues they pay to the State Bar. Everyone is dissatisfied. The Board, preoccupied with local bar association-type politics and duties, and unable to provide sufficient oversight over the years (again evidenced by State Audits and scandal), cannot focus on either job well enough to satisfy anyone.

By failing to include any of our more significant reform recommendations, the Assembly would simply reduce the size of the Board and not reduce the significant breadth of its oversight responsibilities — contributing to further dysfunction. While the elected positions should be eliminated, that reform must be made together with the structural change of decoupling the Bar's regulatory and professional association functions to allow meaningful oversight of the State Bar.

We have provided the Chair of the Assembly Judiciary Committee with language that would, at last, require the State Bar leadership to return to the Legislature in a year with a plan to decouple its regulatory and professional association functions. We fear that if these amendments are not adopted in the Assembly now, the momentum for badly needed change will be lost.

**RECENT EXAMPLE OF DYSFUNCTION.** If the many State Audits and news stories were not enough, and should you need yet a further example of how badly the State Bar has lost its focus on public protection, consider this. Earlier this month, at its regularly scheduled Board meeting, all of the Trustees not assigned to the Regulation and Discipline Committee (half the Board) were dismissed from the dais and forced to sit in the audience for the entirety of the meeting. Although all elected and appointed members of the Board are regulators sworn to protect the public, half remained disengaged throughout the only two hours of a two-day Board meeting at which regulation and discipline were discussed. When a non-attorney Trustee protested, the President claimed that Bagley-Keene required non-committee member Trustees be excluded from the meeting. When asked, the General Counsel opined there were means to allow all Trustees to participate in the regulatory functions of the Bar without violating Bagley-Keene, but the President did not direct her to make such a recommendation. Worse yet, when the non-attorney Trustee moved to direct Counsel to make such a recommendation, both the President and Counsel pronounced the motion out of order. The non-attorney Trustee could not even move to have it placed on the agenda for the next meeting, and the President did not direct General Counsel to take any action on the matter.

**RESTRUCTURE, REFOCUS AND REFORM THE BAR.** There is only one way to ensure a focus on public protection is restored — to finally decouple the regulatory and professional association functions of the State Bar. This will leave serving the attorneys of California to the professional trade association and eliminate the Bar’s bipolar nature. The proposed reforms should also eliminate the bar association-style politics of a Board overly focused on presidential elections and the powers of the President. Attorneys have been given the opportunity to regulate themselves in California for nearly 90 years and repeatedly let down the people of this State by falling deeper into cyclical dysfunction and scandal, all the while saying they are somehow different from every other profession and more worthy of self-regulation.

Moreover, as currently amended, the bill does what the Legislature has historically done when confronted with the cyclical crises at the Bar: it treats selected, identified concerns but is not ambitious enough to address the core problem of the Bar. Indeed, in isolation these solutions:

- micromanage the Bar;
- make the Legislature ever more politically responsible for an agency it is not in a position to run,
- disempower the Bar Board,
- give Bar management an excuse for underperformance (“our hands are tied,” “give us more time”), and
- assign too little responsibility to the Judicial Branch in managing the Bar’s recurrent failures.

With respect, it is time to stop reacting to symptoms of a problem and to address the problem itself.

**CONCLUSION.** We urge you to stand on the floor and say “enough is enough!” Demand amendments that set the Bar on a course toward separating the discipline of attorneys who have

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violated the public trust from the petty politics and palace intrigue of the professional association.

Thank you for your consideration.

Very truly yours,

/s/ Dennis Mangers

Dennis Mangers

Trustee

Senate Appointed, Public Non-Attorney Member

State Bar of California

/s/ Joanna R. Mendoza

Joanna R. Mendoza

Trustee

Elected Member, 3<sup>rd</sup> District

State Bar of California

/s/ Glenda Corcoran

Glenda Corcoran

Trustee

Senate Appointed, Attorney Member

State Bar of California

/s/ Heather Linn Rosing

Heather Linn Rosing

Former Trustee/Vice-President/Treasurer

State Bar of California

cc: Speaker Rendon and All Assemblymembers  
Senator Hannah-Beth Jackson, Chair, Senate Judiciary Committee  
Governor Jerry Brown  
Chief Justice Tani Cantil-Sakauye and Members of the Supreme Court  
President Pasternak and Trustees of the California State Bar  
Elizabeth Parker, Executive Director, California State Bar