

STATE BAR FEE BILL AMENDED TO ADD COST RECOUPMENT PROVISIONS

Amendments to strengthen the State Bar's ability to recoup disciplinary costs and Client Security Fund payments from bad lawyers have been added to the State Bar's Fee Bill ([AB 1708](#) – Assm. Judiciary Committee).

Current law only permits the Bar to recoup these costs by adding them to the lawyer's membership dues bill or costs of reinstatement— which members who have been disbarred or don't want to remain lawyers most often simply ignore. AB 1708 would permit the Bar to pursue those obligations as money judgments.

The amendments also would make a number of cleanup and corrective changes to the State Bar Act, including deleting all references to the former State Bar Conference of Delegates and replacing them with references to the new, completely independent [Conference of Delegates of California Bar Associations](#) that replaced it.

AB 1708 has its first hearing before the Assembly Judiciary Committee on Tuesday, May 6.

BUDGET DEVELOPMENTS

This was a big week for developments relating to the State Budget and efforts to resolve the massive deficit. Topping the list was the California Supreme Court's decision Thursday in [White v. Davis \(S108099\)](#), holding that the state Controller is not authorized to pay state employees' regular salaries after July 1 of any year if a budget has not been enacted pursuant to constitutional requirement. The Legislature has missed the budget deadline in 16 of the past 25 years – including last year by a record 66 days.

The unanimous decision was “bad news/good news” for state employees. The bad news was that the Supreme Court upheld the lower court's ruling that state employees who work during a budget impasse are entitled to no more than federal minimum wage (\$5.15/hour) for work performed from the time the budget deadline is missed until a budget – or other specific appropriation - is finally enacted (unless they are required to work overtime).

In addition, roughly 56,000 of the state's 200,000 workers (including professionals such as lawyers and dentists, as well as Legislative

Staff) who are not subject to the federal minimum wage law would be completely ineligible for pay under the court ruling (though they would receive full pay once a budget is enacted).

The good news for state employees is that the court overruled the lower courts' decisions, holding that employees whose pay has been reduced are entitled to retroactive payment of their full salaries for the time worked during the impasse once an appropriation has been made – either through enactment of the budget bill or via special appropriation. The trial and appellate courts had held that employees could not be “made whole” retroactively.

Controller [Steve Westly](#) issued a [press release](#) saying the decision leaves open to him the decision of whether or not to pay state employees their full salaries. Plaintiffs in the case strongly disputed Westly's interpretation.

See stories in [Sacramento Bee](#), [San Francisco Chronicle](#), [Los Angeles Times](#), [San Jose Mercury-News](#), and [Metropolitan News-Enterprise](#).

Also on Thursday, the Legislature approved a \$3.6-billion package of spending cuts and borrowing. The package involves borrowing to pay pension obligations, cutting health benefits for the poor and dipping into a teachers retirement fund.

At the same time, Assm. Speaker [Herb Wesson](#) (D-Culver City) said the budget deficit could grow by \$2 billion or more when the governor announces the results of April tax filings.

APPROPRIATIONS COMMITTEE GENEROUS TO A ‘T’

For perhaps the first time in legislative history, every person who appeared before the Senate Appropriations Committee on Monday, April 28, actually got something. In this case, the “something” was a red, white and blue T-shirt saying “I went to the Senate Appropriations Committee and all I got was this lousy T-shirt.” A footnote was printed on the back of the shirts: “Not Printed at Taxpayers Expense — They Can't Afford It.”

The shirts were distributed by committee Chair [Dede Alpert](#) (D-Coronado) and Vice Chair [Jim Battin](#) (R-La Quinta), who paid for them out of campaign funds.