

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

SB 1476 (Blakespear)  
Version: April 15, 2024  
Hearing Date: April 23, 2024  
Fiscal: Yes  
Urgency: No  
AM

**SUBJECT**

Political Reform Act of 1974: State Bar of California

**DIGEST**

This bill requires the State Bar of California (State Bar) to have conflict of interest codes in compliance with the Political Reform Act of 1974 (PRA) and would provide that members of the Board of Trustees of the State Bar (Board) and designated employees are subject to the enforcement provisions under the PRA.

**EXECUTIVE SUMMARY**

The State Bar has been embroiled in scandal over its handling, or lack thereof, of once prominent trial attorney Thomas Girardi, who has been accused of stealing millions of dollars from his clients over decades. An independent investigation was conducted examining the State Bar's handling of complaints against Girard over the past 20 years, referred to as the May Report, which exposed numerous troubling revelations, including a lack of oversight and enforcement in regards to conflict of interest statement reporting at the State Bar. This bill seeks to remedy this by expressly requiring the State Bar to have conflict of interest codes in compliance with the PRA and subjecting members of the Board and designated employees to the enforcement provisions under the PRA.

This bill is sponsored by the State Bar and supported by the Consumer Protection Policy Center. No timely opposition was received by the Committee. This bill passed the Senate Elections and Constitutional Amendments Committee on a vote of 7 to 0. The bill requires a two-third majority vote because it amends an initiative statute.

**PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Requires all attorneys who practice law in California to be licensed by the State Bar and establishes the State Bar, within the judicial branch of state government, for the purpose of regulating the legal profession. (Cal. const., art. VI, § 9; Bus. & Prof. Code § 6000 et seq.)
  - a) The Legislature sets the annual fees. (Bus. & Prof. Code § 6140, 6141.)
  - b) The State Bar is governed by the Board of Trustees of the State Bar (Board). (Bus. & Prof. Code § 6010 et seq.; § 6016.)
- 2) Establishes that protection of the public, which includes support for greater access to, and inclusion in, the legal system, is the highest priority for the State Bar in exercising their licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public is to be paramount. (Bus. & Prof. Code § 6001.1.)
- 3) Provides that the State Bar is governed by a Board of Trustees (Board) comprised of 13 members, six of who are public members and seven of who are licensed attorneys. (Bus. & Prof. Code § 6010 et. seq.)
  - a) Seven are attorney members, with five appointed by the Supreme Court, one by the Senate Committee on Rules and one by the Speaker of the Assembly. (Bus. & Prof. Code § 6013.1 & 6013.5(a).)
  - b) Six members are public members, with four appointed by the Governor subject to confirmation of the Senate, one by the Senate Committee on Rules, and one by the Speaker of the Assembly. (Bus. & Prof. Code § 6013.5(c)-(d).)
- 4) Requires the Board to appoint an executive director, general counsel, and chief trial counsel, subject to confirmation of the Senate. (Bus. & Prof. Code § 6011, 3012, & 6079.5.)
- 5) Provides that no law of this state restricting, or prescribing a mode of procedure for the exercise of powers of state public bodies or state agencies, or classes thereof, is applicable to the State Bar, unless the Legislature expressly so declares.
  - a) Provides that members of the Board and employees of the State Bar are subject to the conflicts of interest provisions relating to contracts in Sections 1090 to 1097.2, inclusive of the Government Code, and members of the Board are deemed to be state officers and employees of the State Bar are deemed to be state employees thereunder. (Bus. & Prof. Code § 6001(e)(3).)

- 6) Establishes the Political Reform Act (PRA), which creates the Fair Political Practices Commission (FPPC) and makes it responsible for the impartial, effective administration and implementation of the PRA. (Gov. Code § 81000.)
- 7) Requires every state and local agency to adopt a conflict of interest code that identifies all officials and employees within the agency who make governmental decisions based on the positions they hold.
  - a) Requires the individuals in the designated positions to disclose their financial interests, as specified in the agency's conflict of interest code. (Gov. Code § 87300.)
- 8) Authorizes the FPPC, when it determines there is probable cause for believing the PRA has been violated, to hold a hearing, as provided. (Gov. Code § 83116.)
- 9) Provides that any person who knowingly or willfully violates the PRA is guilty of a misdemeanor. (Gov. Code § 91000(a).)
  - a) A fine of up to the greater of \$10,000 or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation, in addition to other penalties provided by law. (*Id.* at (b).)

This bill:

- 1) Requires that State Bar to maintain a conflict of interest code for its Board and designated employees that meet the requirements for conflict of interest codes under the PRA.
- 2) Authorizes the FPPC to enforce the provisions of the PRA that are applicable to members of the Board and designated employees of the State Bar.
  - a) Specifies that the PRA applies to violations of the conflicts of interest provisions that are applicable to members of the Board and designated employees of the State Bar.

### COMMENTS

#### 1. Stated need for the bill

The author writes:

Following an investigation that found regulators at the State Bar had ties to now disbarred attorney Thomas Girardi, the State Bar has taken a number of actions to restore the public's trust, including making changes to their conflict of interest provisions. During the process of enacting reforms, it became evident that a clarification was needed that specifically requires the enforcement provisions of the

PRA to apply to the State Bar. Therefore, SB 1476 requires the State Bar's conflict of interest codes to be in compliance with the PRA and clarifies the FPPC's administrative enforcement authority with respect to the State Bar.

## 2. The FPPC and conflicts of interest

In the wake of the Watergate scandal, California voters enacted the PRA and established the Fair Political Practices Commission (FPPC) through Proposition 9 in 1974 (June 1974, prim. elec.). The FPPC is a five-member independent, non-partisan commission tasked with the responsibility of administering the PRA. Under the PRA, state and local agencies must adopt a conflict of interest code that identifies all officials and employees within the agency who make governmental decisions based on the positions they hold, and requires them to disclose their financial interests annually by filing a Form 700 with the FPPC. According to the FPPC, the Form 700 provides transparency and ensures accountability by providing transparency to the public so they can ensure that officials are making decisions in the best interest of the public and not enhancing their own personal finances, and it serves as a reminder to public officials and designated employees of potential conflicts of interest so they can abstain from making or participating in governmental decisions that are deemed conflicts of interest.<sup>1</sup> The PRA provides that a public official has a disqualifying conflict of interest in a governmental decision if it is foreseeable that the decision will have a financial impact on that individual's personal finances or other financial interests. (Gov. Code § 87103.)

## 3. The May Report showed a need to strengthen existing conflict of interest laws as they relate to the State Bar

### *a. Background on State Bar*

The State Bar is a public corporation and the largest state bar in the country with roughly 196,441 active licensed attorneys. Attorneys who wish to practice law in California generally must be admitted and licensed in this state and must be members of the State Bar. (Cal. Const., art. VI, § 9.) Although originally a creature of statute, the State Bar is now "a constitutional entity within the judicial article of the California Constitution." (*Obrien, supra*, 23 Cal.4th at 48; *see* Cal. Const., art. VI, § 9; Bus. & Prof. Code, Sec. 6001.) The State Bar functions as the administrative arm of the Supreme Court for the purpose of assisting in attorney admissions and discipline, with the court retaining its inherent judicial authority to disbar or suspend attorneys. (*In re Attorney Discipline System, supra*, 19 Cal.4th at 599-600; *see Keller v. State Bar of California* (1990) 496 U.S. 1, 11.) At the same time, the Legislature's exercise, under the police power, of a reasonable degree of regulation and control over the profession and practice of law in

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<sup>1</sup> *Statements of Economic Interests - Form 700*, Fair Pol. Practices Comm.  
<https://www.fppc.ca.gov/Form700.html>.

California, is well established. (*O'Brien, supra*, 23 Cal.4th at 48.) The Legislature exercises regulatory authority pursuant to the State Bar Act and has authority to set the amount of membership fees necessary to fund the disciplinary system. The Legislature has enacted statutes making protection of the public the highest priority of the State Bar (Bus. & Prof. Code § 6001.1.)

*b. Girardi scandal and aftermath*

As discussed above in the Executive Summary, in 2021 prominent attorney Tom Girardi was accused of stealing millions of dollars from his injured clients over decades. The Lazar Report confirmed that serious and repeated allegations of misconduct against Girardi were reported to the State Bar over decades, but the State Bar did not take any disciplinary action against him until 2021 when he was disbarred by the California Supreme Court after a disciplinary hearing by the State Bar.<sup>2</sup> This only occurred after a federal court found that Girardi had misappropriated \$2 million that was awarded to victims' families in the Lion Air flight 610 plane crash of 2018, and referred the matter to federal prosecutors for further investigation. This incident triggered numerous further accusations against Girardi for stealing client funds and the true scope of his malfeasance finally began to materialize. Eventually, Girardi and his law firm, Girardi Keese, were forced into bankruptcy. Last year Girardi was indicted by federal grand juries in Los Angeles and Chicago on charges that he embezzled more than \$18 million from his clients.

After the findings of the Lazar Report, the State Bar initiated an independent investigation into Girardi and his relationship with the State Bar, which culminated in the May Report. The May Report's findings were alarming and detailed a history of weak internal enforcement of conflict of interests and troubling relationships between employees of the State Bar and Girardi. The May Report noted that the State Bar had adopted a conflict of interest code substantially similar to the FPPC's but when investigators requested to review Form 700s for individuals relevant to the inquiry "the State Bar was unable to locate all requested forms."<sup>3</sup> For the Form 700s that the State Bar had on file, many were "incomplete and sometimes not even signed."<sup>4</sup> The May Report noted that not requiring Form 700s to be tracked or completed accurately makes it difficult for the State Bar to identify conflicts of interest and hold individuals accountable for not handling conflicts in an appropriate manner. The May Report then went on to detail numerous conflicts of interest between certain States Bar employees

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<sup>2</sup> Lazar Report (released Mar. 10, 2023), available at <https://www.calbar.ca.gov/Portals/0/documents/reports/Lazar-Report-and-Attachment-Redacted.pdf>.

<sup>3</sup> May Report (released Feb. 4, 2023), available at <https://www.calbar.ca.gov/Portals/0/documents/reports/May-Report-and-Addendum-Redacted.pdf> at p. 10.

<sup>4</sup> *Ibid.*

that were never reported and several instances when those employees never even submitted the required Form 700.

The Senate and Assembly Judiciary Committees held a joint oversight hearing of the State Bar in May 2023 to examine the findings of both the Lazar Report and May Report.<sup>5</sup> At the hearing, members of both Committees expressed incredulity over the lackadaisical approach of the State Bar to ensuring Form 700s were filed and alarm that there seemed to be no clear entity that could punish non-compliant board members or employees under existing law. In last year's State Bar fee authorization bill, SB 40 (Umberg, Ch. 697, Stats. 2023) some changes were made to strengthen conflict of interest statutes as they relate to the State Bar, including subjecting members of the Board and employees of the State Bar to specified conflict of interest provisions relating to contracts and expanding the scope of when a member is to disqualify themselves from a decision of the State Bar. (Bus. & Prof. Code § 6001(e)(3) & § 6036.) However, the May Report's findings demonstrate a clear need to ensure that an independent entity was charged with overseeing and enforcing conflict of interest provisions for the State Bar. This bill does this by: (1) expressly requiring the State Bar to maintain a conflict of interest code for its Board members and designated employees that meet the requirements for conflict of interest codes under the PRA; and 2) authorizing the FPPC to enforce the provisions of the PRA made applicable to the State Bar, including civil penalties and criminal penalties.

The State Bar, who is the sponsor of this bill, notes that they have made several changes recently to address concerns raised in the May Report, including:

- Creating a Transparency and Accountability webpage<sup>6</sup> where the public can access Statements of Economic Interest and can view compliance of staff and Board members with Form 700 filing requirements, as well as requirements to disclose conflicts that could impact the handling of discipline matters.
- Imposing an additional conflict check before the closing of disciplinary matters (in addition to a conflict check when assigned a disciplinary matter) to ensure the staff involved in the closing decision identify whether they have any conflicts.
- Amending rules and procedures to require candidates for positions on the Board or as judges on the State Bar Court to disclose actual and potential financial and nonfinancial conflicts so that the committees charged with recommending appointments have complete information.

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<sup>5</sup> For a detailed description of the findings of both the Lazar Report and the May Report see *The California State Bar - Administrative Arm of the Supreme Court:*

*Disconcerting Revelations Raise Questions About its Ability to Protect the Public*, Oversight Hearing of the Ass. and Sen. Comm. on Judiciary, (May 2023) available at

[https://sjud.senate.ca.gov/sites/sjud.senate.ca.gov/files/background\\_paper\\_final\\_letterhead.pdf](https://sjud.senate.ca.gov/sites/sjud.senate.ca.gov/files/background_paper_final_letterhead.pdf).

<sup>6</sup> <https://www.calbar.ca.gov/About-Us/Our-Mission/Protecting-the-Public/Transparency-Accountability>.

- Updating its conflict of interest codes for the Board and designated employees consistent with the requirements set forth by the FPPC in the California Code of Regulations. (2 Cal. Code of Regs. § 18700 et. seq.)

4. Statements in support

The Consumer Protection Policy Center writes in support stating:

In recent years, the State Bar has taken a number of actions to address their mishandlings of complaints against attorneys and to restore the public's trust, including changes to their conflict of interest provisions. During that process to strengthen accountability and improve transparency, it became evident that clarifications to the PRA were needed to ensure the State Bar's conflict of interest code must be compliant with the PRA and that the enforcement provisions of the PRA apply to the State Bar.

**SUPPORT**

State Bar of California (sponsor)  
Consumer Protection Policy Center

**OPPOSITION**

None received

**RELATED LEGISLATION**

Pending Legislation: AB 3279 (Committee on Judiciary, 2024) is the annual State Bar fee bill that makes various changes to the State Bar Act. This bill is currently pending in the Assembly Judiciary Committee.

Prior Legislation: SB 40 (Umberg, Ch. 697, Stats. 2023), among other things, provided that members of the Board and employees of the State Bar are subject to the conflicts of interest provisions relating to specified contracts.

**PRIOR VOTES**

Senate Elections and Constitutional Amendments Committee (Ayes 7, Noes 0)

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