



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-452 Courts. (2017-2018)

SHARE THIS:  

Date Published: 06/29/2017 04:00 AM

Assembly Bill No. 452

CHAPTER 36

An act to amend Sections 6076.5 and 6081 of the Business and Professions Code, to amend Section 1180 of the Civil Code, to amend Sections 915, 946.6, 955.9, 1001, 68512, 68802, 68803, 68843, 68846, 68847, 68928, 69141, and 69154 of, and to add Section 68500.3 to, the Government Code, and to amend Sections 4850, 4851, and 4852 of the Penal Code, relating to courts.

[Approved by Governor June 28, 2017. Filed with Secretary of State June 28, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 452, Bloom. Courts.

Existing law creates the position of Clerk of the Supreme Court, and Clerk/Administrator of the Court of Appeal.

This bill would change references to the Clerk of the Supreme Court to the Clerk/Executive Officer of the Supreme Court, and would change references to the Clerk/Administrator of the Court of Appeal to the Clerk/Executive Officer of the Court of Appeal.

Existing law creates the Administrative Office of the Courts to provide administrative support to the Judicial Council.

This bill would change references in state law to the Administrative Office of the Courts instead to the Judicial Council.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6076.5 of the Business and Professions Code is amended to read:

6076.5. (a) With the approval of the Supreme Court, the members of the State Bar may formulate by initiative, pursuant to the provisions of this section, rules of professional conduct for all members of the bar in the state.

(b) Only active members of the State Bar shall be proponents of initiative measures pursuant to this section.

(c) Prior to the circulation of any initiative petition for signatures, the proponents shall file the text of the proposed initiative measure with both the Secretary of the State Bar and the Clerk/Executive Officer of the Supreme Court.

(d) Upon receipt of the text of a proposed initiative measure, the secretary shall prepare a summary of the chief purposes and points of the proposed initiative measure. The summary shall give a true and impartial statement of the purpose of the measure in such language that it shall not be an argument or likely to create prejudice either for or against the measure. The secretary shall provide a copy of the summary to the proponents within 30 days after receipt of the final version of the proposed measure. If

during the 30-day period the proponents submit amendments, other than technical, nonsubstantive amendments, to the final version of such measure, the secretary shall provide a copy of the summary to the proponents within 30 days after receipt of such amendments.

(e) The proponents of any proposed initiative measure shall, prior to its circulation, place upon each section of the petition, above the text of the measure and across the top of each page of the petition on which signatures are to appear, in boldface type not smaller than 12-point, the summary prepared by the secretary.

(f) All such initiative petitions shall have printed across the top thereof in 12-point boldface type the following: "Initiative measure to be submitted directly to the members of the State Bar of California."

(g) Any initiative petition may be presented in sections, but each section shall contain a full and correct copy of the title and text of the proposed measure.

(h) The petition sections shall be designed so that each signer shall personally affix his or her:

- (1) Signature;
- (2) Printed name;
- (3) State Bar membership number; and
- (4) Principal office address for the practice of law.

Only a person who is an active member of the State Bar at the time of signing the petition is entitled to sign it.

The number of signatures attached to each section shall be at the discretion of the person soliciting the signatures.

(i) Any member of the State Bar, or employee or agent thereof, may circulate an initiative petition anywhere within the state.

Any person circulating a petition may sign the section he or she is circulating if he or she is otherwise qualified to do so.

(j) Each section shall have attached thereto the affidavit of the person soliciting the signatures stating:

- (1) The qualifications of the solicitor;
- (2) That the signatures affixed to the section were made in his or her presence;
- (3) That to the best of his or her knowledge and belief, each signature is the genuine signature of the person whose name it purports to be;
- (4) That to the best of his or her knowledge and belief, each State Bar membership number is the genuine membership number of the person whose number it purports to be; and
- (5) The dates between which all signatures were obtained.

The affidavit shall be verified free of charge by any officer authorized to administer oaths.

Petitions so verified shall be prima facie evidence that the signatures thereon are genuine and that the persons signing are active members of the State Bar. Unless and until it be otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of active members of the State Bar.

(k) All sections of the petition shall be filed with the Secretary of the State Bar within 180 days after the date upon which the secretary mailed or delivered to the proponents a copy of the summary specified in subdivision (d), but all sections circulated in any State Bar district shall be filed at the same time.

(l) An initiative shall not be submitted to the members of the State Bar for a vote unless with regard to each State Bar district the petition has been signed by at least 20 percent of the number of active members whose principal office for the practice of law was within the district as of the January 1 preceding the date upon which all sections of the petition from all State Bar districts were filed with the secretary.

(m) The secretary shall promptly determine the total number of signatures from each State Bar district affixed to the petition. If the total number of signatures from any State Bar district is less than the number required by subdivision (l), the secretary shall so notify the proponents and no further action shall be taken in regard to the petition. If the total number of signatures from each and every State Bar district is equal to or greater than the number required by subdivision (l), the secretary shall verify the names and State Bar membership numbers, and may, in his or her discretion, verify the office addresses and signatures of the persons who signed the petition. If the total number of verified signers of the petition from any State Bar district is less than the number

required by subdivision (l), the secretary shall so notify the proponents and no further action shall be taken in regard to the petition. If the total number of verified signers of the petition from each and every State Bar district is equal to or greater than the number required by subdivision (l), the secretary shall cause the initiative measure to be submitted within 90 days to all of the active members of the State Bar for mail vote pursuant to such rules and regulations as the board may from time to time prescribe.

(n) The board of trustees, without petition, may also direct the secretary to cause an initiative measure embodying a rule of professional conduct formulated by the board to be submitted to all of the active members of the State Bar for mail vote in accordance with the rules and regulations prescribed by the board.

(o) If a majority of the active members of the State Bar fail to approve the initiative measure, the secretary shall so notify the proponents and the Clerk/Executive Officer of the Supreme Court.

If a majority of the active members of the State Bar approve the initiative measure, the secretary shall cause the measure to be submitted to the Supreme Court for its consideration as a rule of professional conduct.

(p) The rules of professional conduct submitted to the Supreme Court pursuant to the provisions of this section, when approved by the Supreme Court, shall have the same force and effect as the rules of professional conduct formulated by the board of trustees and approved by the Supreme Court pursuant to Sections 6076 and 6077.

SEC. 2. Section 6081 of the Business and Professions Code is amended to read:

6081. Upon the making of any decision recommending the disbarment or suspension from practice of any member of the State Bar, the board shall immediately file a certified copy of the decision, together with the transcript and the findings, with the Clerk/Executive Officer of the Supreme Court. Upon enrolling a member as an inactive member pursuant to Section 6007 of this code, or upon terminating or refusing to terminate such enrollment pursuant to such section the board shall immediately give appropriate written notice to the member and to the Clerk/Executive Officer of the Supreme Court.

SEC. 3. Section 1180 of the Civil Code is amended to read:

1180. The proof or acknowledgment of an instrument may be made at any place within this state before a justice, retired justice, or Clerk/Executive Officer of the Supreme Court, a justice, retired justice, or clerk of any court of appeal or judge or retired judge of a superior court, or the Secretary of the Senate or Chief Clerk of the Assembly.

SEC. 4. Section 915 of the Government Code is amended to read:

915. (a) A claim, any amendment thereto, or an application to the public entity for leave to present a late claim shall be presented to a local public entity by either of the following means:

- (1) Delivering it to the clerk, secretary or auditor thereof.
- (2) Mailing it to the clerk, secretary, auditor, or to the governing body at its principal office.

(b) Except as provided in subdivisions (c) and (d), a claim, any amendment thereto, or an application for leave to file a late claim shall be presented to the state by either of the following means:

- (1) Delivering it to an office of the Department of General Services.
- (2) Mailing it to the Department of General Services at its principal office.

(c) A claim, any amendment thereto, or an application for leave to file a late claim shall be presented to a judicial branch entity in accordance with the following means:

- (1) Delivering or mailing it to the court executive officer, if against a superior court or a judge, court executive officer, or trial court employee, as defined in Section 811.9, of that court.
- (2) Delivering or mailing it to the Clerk/Executive Officer of the court of appeals, if against a court of appeals or a judge of that court.
- (3) Delivering or mailing it to the Clerk/Executive Officer of the Supreme Court, if against the Supreme Court or a judge of that court.
- (4) Delivering or mailing it to the Administrative Director of the Judicial Council, if against the Judicial Council or the Administrative Office of the Courts.

(d) A claim, any amendment thereto, or an application for leave to file a late claim shall be presented to the Trustees of the California State University by delivering or mailing it to the Office of Risk Management at the Office of the Chancellor of the California State University.

(e) A claim, amendment or application shall be deemed to have been presented in compliance with this section even though it is not delivered or mailed as provided in this section if, within the time prescribed for presentation thereof, any of the following apply:

(1) It is actually received by the clerk, secretary, auditor, or board of the local public entity.

(2) It is actually received at an office of the Department of General Services.

(3) If against the California State University, it is actually received by the Trustees of the California State University.

(4) If against a judicial branch entity or judge, it is actually received by the court executive officer, court clerk/administrator, court clerk, or secretariat of the judicial branch entity.

(f) A claim, amendment or application shall be deemed to have been presented in compliance with this section to a public agency as defined in Section 53050 if it is delivered or mailed within the time prescribed for presentation thereof in conformity with the information contained in the statement in the Roster of Public Agencies pertaining to that public agency which is on file at the time the claim, amendment or application is delivered or mailed. As used in this subdivision, "statement in the Roster of Public Agencies" means the statement or amended statement in the Roster of Public Agencies in the office of the Secretary of State or in the office of the county clerk of any county in which the statement or amended statement is on file.

SEC. 5. Section 946.6 of the Government Code is amended to read:

946.6. (a) If an application for leave to present a claim is denied or deemed to be denied pursuant to Section 911.6, a petition may be made to the court for an order relieving the petitioner from Section 945.4. The proper court for filing the petition is a superior court that would be a proper court for the trial of an action on the cause of action to which the claim relates. If the petition is filed in a court which is not a proper court for the determination of the matter, the court, on motion of any party, shall transfer the proceeding to a proper court. If an action on the cause of action to which the claim relates would be a limited civil case, a proceeding pursuant to this section is a limited civil case.

(b) The petition shall show each of the following:

(1) That application was made to the board under Section 911.4 and was denied or deemed denied.

(2) The reason for failure to present the claim within the time limit specified in Section 911.2.

(3) The information required by Section 910.

The petition shall be filed within six months after the application to the board is denied or deemed to be denied pursuant to Section 911.6.

(c) The court shall relieve the petitioner from the requirements of Section 945.4 if the court finds that the application to the board under Section 911.4 was made within a reasonable time not to exceed that specified in subdivision (b) of Section 911.4 and was denied or deemed denied pursuant to Section 911.6 and that one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect unless the public entity establishes that it would be prejudiced in the defense of the claim if the court relieves the petitioner from the requirements of Section 945.4.

(2) The person who sustained the alleged injury, damage or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim.

(3) The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of that disability failed to present a claim during that time.

(4) The person who sustained the alleged injury, damage or loss died before the expiration of the time specified in Section 911.2 for the presentation of the claim.

(d) A copy of the petition and a written notice of the time and place of hearing shall be served before the hearing as prescribed by subdivision (b) of Section 1005 of the Code of Civil Procedure on (1) the clerk or secretary or board of the local public entity, if the respondent is a local public entity, or (2) the Attorney General, if the respondent is the state. If the petition involves a claim arising out of alleged actions or inactions of the Department of Transportation, service of the petition and notice of the hearing shall be made on the Attorney General or the Director of Transportation. Service on the Attorney General may be accomplished at any of

the Attorney General's offices in Los Angeles, Sacramento, San Diego, or San Francisco. Service on the Director of Transportation may be accomplished only at the Department of Transportation's headquarters office in Sacramento. If the petition involves a claim arising out of alleged actions or inactions of a judicial branch entity, service of the petition and notice of the hearing shall be made in accordance with the following:

(1) If the petition involves a claim arising out of alleged actions or inactions of a superior court or a judge, court executive officer, or trial court employee, as defined in Section 811.9, of the court, service shall be made on the court executive officer.

(2) If the petition involves a claim arising out of alleged actions or inactions of a court of appeals or a judge thereof, service shall be made on the Clerk/Executive Officer of the court of appeals.

(3) If the petition involves a claim arising out of alleged actions or inactions of the Supreme Court or a judge thereof, service shall be made on the Clerk/Executive Officer of the Supreme Court.

(4) If the petition involves a claim arising out of alleged actions or inactions of the Judicial Council or the Administrative Office of the Courts, service shall be made on the Administrative Director of the Judicial Council.

(e) The court shall make an independent determination upon the petition. The determination shall be made upon the basis of the petition, any affidavits in support of or in opposition to the petition, and any additional evidence received at the hearing on the petition.

(f) If the court makes an order relieving the petitioner from Section 945.4, suit on the cause of action to which the claim relates shall be filed with the court within 30 days thereafter.

SEC. 6. Section 955.9 of the Government Code is amended to read:

955.9. In actions on claims against a judicial branch entity, service of summons shall be made on:

(a) The court executive officer, in actions on claims against a superior court or a judge thereof.

(b) The Clerk/Executive Officer of the Court of Appeal, in actions on claims against a court of appeals or a judge thereof.

(c) The Clerk/Executive Officer of the Supreme Court, in actions on claims against the Supreme Court or a judge thereof.

(d) The Administrative Director of the Judicial Council, in actions on claims against the Judicial Council or the Administrative Office of the Courts.

SEC. 7. Section 1001 of the Government Code is amended to read:

1001. The civil executive officers are: a Governor; a private secretary and an executive secretary for the Governor; a Lieutenant Governor; a Secretary of State; a Deputy Secretary of State; a Keeper of Archives of State for the Secretary of State; a bookkeeper for the Secretary of State; three recording clerks for the Secretary of State; a Controller; a Deputy Controller; a bookkeeper for the Controller; five clerks for the Controller; a Treasurer; a Deputy Treasurer; a bookkeeper for the Treasurer; a clerk for six months in each year for the Treasurer; an Attorney General and all assistant and deputy attorneys general; a Superintendent of Public Instruction; one clerk for the Superintendent of Public Instruction; an Insurance Commissioner; a deputy for the Insurance Commissioner; four port wardens for the Port of San Francisco; a port warden for each port of entry except San Francisco; five State Harbor Commissioners for San Francisco Harbor; six pilots for each harbor where there is no board of pilot commissioners; three members of the Board of Pilot Commissioners for Humboldt Bay and Bar; 13 members of the State Board of Agriculture; four members of the State Board of Equalization; a clerk of the Board of Equalization; three members of the State Board of Education; a librarian for the Supreme Court Library and the Chief Assistant Clerk/Executive Officer and the Assistant Clerks/Executive Officers of the Supreme Court; five directors for the state hospital at Napa; the manager, assistant manager, chief counsel, and division chiefs, State Compensation Insurance Fund; the head of each department and all chiefs of divisions, deputies, and secretaries of a department; such other officers as fill offices created by or under the authority of charters or laws for the government of counties and cities or of the health, school, election, road, or revenue laws; or persons serving on boards or commissions created under the laws of the state or established under the State Constitution.

SEC. 8. Section 68500.3 is added to the Government Code, to read:

68500.3. Any reference to the Administrative Office of the Courts in state law means the Judicial Council.

SEC. 9. Section 68512 of the Government Code is amended to read:

68512. The Chair of the Judicial Council, with the approval of the Director of Finance, may adjust the salaries of the following judicial officers by the same percent as is granted state employees of comparable salary level as a general salary increase after July 1, 1969:

(a) The Clerk/Executive Officer of the Supreme Court.

(b) The reporter of decisions for the Supreme Court and of the courts of appeal whose salary is set by Section 68901.

SEC. 10. Section 68802 of the Government Code is amended to read:

68802. If the state does not provide proper rooms in which to hold the court and for the accommodation of the officers of the court, together with attendants, furniture, fuel, lights, and stationery, suitable and sufficient for the transaction of business, the court, or any three justices, may direct the Clerk/Executive Officer of the Supreme Court to provide them. The expenses thereof, certified by any three justices to be correct, shall be paid out of the State Treasury.

SEC. 11. Section 68803 of the Government Code is amended to read:

68803. A sufficient sum shall be annually appropriated out of any funds in the State Treasury not otherwise appropriated for the expenses certified to pursuant to Section 68802 and to defray the traveling expenses of the justices and officers of the Supreme Court. The money so appropriated shall be subject to the order of the Clerk/Executive Officer of the Supreme Court. He or she shall disburse the money on proper vouchers, and account for it in annual settlements with the State Controller on the first Monday of December of each year.

SEC. 12. Section 68843 of the Government Code is amended to read:

68843. The Supreme Court shall appoint a clerk, who shall be known as the Clerk/Executive Officer of the Supreme Court, and who shall serve at its pleasure. The Clerk/Executive Officer of the Supreme Court, with the approval of a majority of the Justices of the Supreme Court, shall appoint deputy clerks, librarians, secretaries, and other employees of the Supreme Court as are required. The Supreme Court shall determine the duties and, subject to subdivision (b) of Section 19825, fix and pay the compensation of these officers.

SEC. 13. Section 68846 of the Government Code is amended to read:

68846. The fees collected by the Clerk/Executive Officer of the Supreme Court shall be paid into the State Treasury to the credit of the General Fund. The Clerk/Executive Officer is responsible and in his or her settlement with the Controller shall account for, and be charged with, the full amount of all fees collected or chargeable and accruing in causes brought into the court for services rendered therein up to the time of each settlement. At the end of every month he or she shall pay the full amount into the State Treasury. At the end of every month he or she shall also render to the Controller, in a form as that officer prescribes, an account in detail, under his or her own oath, of all fees chargeable and accruing in causes brought into court and not included in his or her previous accounts rendered.

SEC. 14. Section 68847 of the Government Code is amended to read:

68847. The Clerk/Executive Officer of the Supreme Court shall collect in advance the fees specified in Article 4 (commencing with Section 68926) of this chapter.

SEC. 15. Section 68928 of the Government Code is amended to read:

68928. The fee for copies of any record or document in the office of the Clerk/Executive Officer of the Supreme Court or the Clerk/Executive Officer of a court of appeal is the prevailing commercial rate as determined by the Clerk/Executive Officer. The Supreme Court and each court of appeal may waive the charge for copies of opinions furnished to parties to the litigation and other interested persons.

SEC. 16. Section 69141 of the Government Code is amended to read:

69141. Each court of appeal may appoint and employ during its pleasure a Clerk/Executive Officer of the court of appeal, and other phonographic reporters, assistants, secretaries, librarians, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon it and its members. Except as otherwise provided in this chapter, each appellate court may determine the duties and, subject to subdivision (b) of Section 19825 of the Government Code, fix and pay the compensation of all of its officers and employees.

All salaries and expenses incurred under this section shall be paid from the funds appropriated for the use of appellate courts, when approved by order of the courts.

SEC. 17. Section 69154 of the Government Code is amended to read:

69154. All fees collected by the clerks of the courts of appeal shall be paid into the State Treasury to the credit of the General Fund. The provisions of Section 68846 relating to settlements by the Clerk/Executive Officer of the Supreme Court are applicable to the Clerks/Executive Officers of the courts of appeal.

SEC. 18. Section 4850 of the Penal Code is amended to read:

4850. An application that has not received a recommendation from the Board of Parole Hearings favorable to the applicant shall not be forwarded to the Clerk/Executive Officer of the Supreme Court, unless the Governor, notwithstanding the fact that the board has failed to make a recommendation favorable to the applicant, especially refers an application to the justices for their recommendation.

SEC. 19. Section 4851 of the Penal Code is amended to read:

4851. In all cases where the Board of Parole Hearings has made a recommendation favorable to the applicant and in those cases referred by the Governor, notwithstanding an adverse recommendation, the application, together with all papers and documents relied upon in support of and in opposition to the application, including prison records and recommendation of the Board of Prison Terms, shall be forwarded to the Clerk/Executive Officer of the Supreme Court for consideration of the justices.

SEC. 20. Section 4852 of the Penal Code is amended to read:

4852. If a majority of the justices recommend that clemency be granted, the Clerk/Executive Officer of the Supreme Court shall transmit the application, together with all papers and documents filed in the case, to the Governor; otherwise the documents shall remain in the files of the court.