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SB-47 February 2025 bar exam: audit. (2025-2026)

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Senate Bill No. 47

CHAPTER 209

An act to amend Section 6145 of the Business and Professions Code, relating to the State Bar, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 01, 2025. Filed with Secretary of State October 01, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

SB 47, Umberg. February 2025 bar exam: audit.

The State Bar Act provides for the licensure and regulation of attorneys by the State Bar of California (State Bar), a public corporation governed by a board of trustees. The act sets forth the requirements for a license to practice law in California, including passing the general bar examination. The act requires the board of trustees to contract with the California State Auditor every 2 years to conduct a performance audit of the State Bar's operations.

This bill would require the California State Auditor to conduct an audit of the February 2025 bar exam, as specified, and to submit the audit as soon as possible to the board of trustees, the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary. The bill would require the State Bar to provide the California State Auditor with the funding necessary to cover the costs of the audit.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

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

SECTION 1. Section 6145 of the Business and Professions Code is amended to read:

6145. (a) The board shall engage the services of an independent national or regional public accounting firm with at least five years of experience in governmental auditing for an audit of its financial statement for each fiscal year. The financial statement shall be promptly certified under oath by the chief financial officer of the State Bar, and a copy of the audit and financial statement shall be submitted annually, on or before May 31, to the board, to the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary.

The audit also shall examine the receipts and expenditures of the State Bar to ensure that the funds collected on behalf of the Conference of Delegates of California Bar Associations as the independent successor entity to the former Conference of Delegates of the State Bar are conveyed to that entity, that the State Bar has been paid or reimbursed for the full cost of any administrative and support services provided to the successor entity, including the collection of fees or donations on its behalf, and that no mandatory fees are being used to fund the activities of the successor entity.

In selecting the accounting firm, the board shall consider the value of continuity, along with the risk that continued long-term engagements of an accounting firm may affect the independence of that firm.

(b) The board shall contract with the California State Auditor's Office to conduct a performance audit of the State Bar's operations from July 1, 2000, to December 31, 2000, inclusive. A copy of the performance audit shall be submitted by May 1, 2001, to the board, to the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary.

Every two years thereafter, the board shall contract with the California State Auditor's Office to conduct a performance audit of the State Bar's operations for the respective fiscal year, commencing with January 1, 2002, to December 31, 2002, inclusive. A copy of the performance audit shall be submitted within 120 days of the close of the fiscal year for which the audit was performed to the board, to the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary.

For the purposes of this subdivision, the California State Auditor's Office may contract with a third party to conduct the performance audit. This subdivision is not intended to reduce the number of audits the California State Auditor's Office may otherwise be able to conduct.

(c) (1) For the 2023 audit required pursuant to subdivision (b), the California State Auditor's Office shall conduct a performance audit of the State Bar as set forth in this subdivision. The State Bar shall provide technical assistance, data, or information as requested by the California State Auditor. It is the intent of the Legislature that this audit may be reviewed in conjunction with the legislation that authorizes the State Bar's licensing fee in 2023.

(2) The audit shall evaluate each program or division of the State Bar receiving support from the annual State Bar licensing fees and other fees required of active and inactive licensees.

(3) The audit shall, at minimum, include all of the following for each program or division described by paragraph (2):

(A) An assessment of how much fee revenue, staff, and resources are currently budgeted and subsequently expended to perform existing tasks and responsibilities.

(B) An assessment of whether the State Bar has appropriate program performance measures in place and how these measures are used for budgeting purposes.

(C) An assessment of the usage of any real property sold by the State Bar.

(D) A review of the State Bar's cost allocation plan used to allocate administrative costs.

(E) A review of any proposals for additional funding or resources requested by the State Bar to determine whether these proposals are necessary to meet the State Bar's public protection function, as well as the accuracy of identified associated funding needs, after reviewing how existing resources are used.

(F) A calculation of how much fee revenue would be needed from each State Bar active and inactive licensee to fully offset State Bar costs to perform existing tasks and responsibilities and to support additional proposed expenditures determined to be necessary to meet the State Bar's public protection function. This calculation shall take into account any proposed business process reengineering, reallocations, or efficiencies identified by the California State Auditor.

(4) The audit shall include an evaluation of how the State Bar administers discipline cases that require an outside investigator or prosecutor and how that process can be improved, including the cost-effectiveness and timeliness of such investigations and prosecutions.

(5) The audit required by this subdivision shall be submitted by April 15, 2023, to the board of trustees, the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary.

(6) The State Bar shall use existing resources to reimburse the California State Auditor's Office for the costs of conducting the audit required by this subdivision.

(d) (1) The California State Auditor shall conduct an audit of the February 2025 bar exam to evaluate the administration of the February 2025 bar exam and how the problems with the exam occurred.

(2) The audit required by this subdivision shall do all of the following:

(A) Evaluate the bidding and contracting process that the State Bar engaged in that led to awarding the contract to Proctor U, Inc., doing business as Measure Learning, as well as the final terms of the contract, and determine the following:

(i) Whether the process was conducted according to existing laws, regulations, and policies.

(ii) What evaluation criteria were used to determine whether Meazure Learning had experience with, and was capable of, conducting an examination similar to the State Bar examination.

(iii) Whether the State Bar appropriately evaluated and authorized any changes, including cost changes, to the executed contract.

(iv) Whether there were appropriate protections from, and evaluations of, any potential conflicts of interest that may have existed between relevant staff at the State Bar and Meazure Learning.

(B) Evaluate the bidding and contracting process that the State Bar engaged in that led to awarding the contract to Kaplan, Inc. for administration of the State Bar examination multiple choice questions, as well as the final terms of the contract for those services, and determine all of the following:

(i) Whether the processes were conducted according to existing laws, regulations, and policies.

(ii) What evaluation criteria was used to determine whether Kaplan, Inc. had experience with, and was capable of, creating relevant and appropriate questions similar to existing comparable entities like the National Conference of Bar Examiners.

(iii) Whether the terms of the contract allowed for oversight and monitoring of the question development process, and whether the State Bar appropriately utilized its oversight and monitoring to ensure that sufficient processes were engaged in to develop questions, ensure accuracy, and ensure fairness in the question development.

(iv) Why Kaplan, Inc. provided 100 multiple choice questions for the February 2025 bar exam, instead of 200.

(C) Evaluate the process that the State Bar engaged in leading up to the administration of the February 2025 State Bar examination to ensure that the examination was conducted in a way that allowed participants to engage fairly in the examination process, and determine all of the following:

(i) When and how the State Bar became aware of any potential problems with the administration of the examination, including limits or problems with examination locations, and how those potential problems were addressed.

(ii) How the process for remote examination employed for the February 2025 State Bar examination differed from the processes used for remote examination during the COVID-19 pandemic, and the reasons for those differences.

(iii) The process and reasoning for determining that a makeup examination date should be offered, and the timeline for making that determination.

(iv) The process for determining what specific equipment would be permitted for test-takers, such as white boards, and the reasoning and processes utilized to make any changes to those requirements leading up to the examination date.

(D) Evaluate the events that led the State Bar to use artificial intelligence to create multiple choice questions for use on the February 2025 State Bar examination, including all of the following:

(i) When the decision was made.

(ii) Who or what department made the decision.

(iii) The rationale for making the decision.

(iv) When executive leadership at the State Bar knew that artificial intelligence was used to create questions for the February 2025 State Bar examination.

(v) What evaluation criteria were used to ensure that the questions were correct and appropriate for use on the February 2025 State Bar examination.

(vi) What deficiencies in oversight by executive leadership at the Office of Admissions existed, if any, and how have any such deficiencies been remedied.

(E) (i) Itemize the State Bar costs arising from administration of the February 2025 State Bar examination, including, but not limited to, costs arising from existing contracts, legal representation, remedies provided to takers of the February 2025 State Bar examination, and any other associated costs. The costs itemized in this clause should include money already spent, money the State Bar is legally obligated to spend going forward, and other anticipated costs.

(ii) Identify how much money the State Bar claimed it would save by using the February 2025 State Bar examination format and compare that amount to the total of the costs itemized pursuant to clause (i).

(3) The audit required by this subdivision shall be submitted as soon as possible to the board of trustees, the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary pursuant to Section 9795 of the Government Code.

(4) Notwithstanding Section 8544.5 of the Government Code or any other law, the costs of conducting the audit required by this subdivision shall not be paid from the State Audit Fund. The State Bar shall use existing resources to provide the California State Auditor with the funding necessary to cover the costs of the audit.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

This bill requires, among other things, the California State Auditor to conduct an audit of the February 2025 bar exam, and to submit the audit as soon as possible to the board of trustees, the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary. To ensure that the California State Auditor may commence the audit as soon as possible, it is necessary for this act to take effect immediately.